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BOARD MEETING  
STATE OF CALIFORNIA  
INTEGRATED WASTE MANAGEMENT BOARD

JOE SERNA, JR., CALEPA BUILDING  
1001 I STREET  
2ND FLOOR  
CENTRAL VALLEY AUDITORIUM  
SACRAMENTO, CALIFORNIA

WEDNESDAY, FEBRUARY 18, 2004  
9:30 A.M.

TIFFANY C. KRAFT, CSR, RPR  
CERTIFIED SHORTHAND REPORTER  
LICENSE NUMBER 12277

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

BOARD MEMBERS

Steven R. Jones

Jose Medina

Linda Moulton-Patterson

Cheryl Peace

Michael Paparian

Carl Washington

STAFF

Mark Leary, Executive Director

Julie Nauman, Chief Deputy Director

Marie Carter, Chief Counsel

Gabe Aboushanab, Supervisor, LEA Support Services Branch?

Sharon Anderson, LEA Support Services Division Branch  
Manager

Eric Bissinger, Staff

Michael Bledsoe, Staff Counsel

Mark de Bie, Branch Manager, Permitting and Inspection

Nancy Carr, Staff

Chris Deidrick, Staff

Mitch Delmage, Supervisor, Waste Tire Division

Don Dier, Manager, Waste Tire Management

Tadese Gebre-Hawariat, Staff

Gale Grigsby

Reinhard Hohlwein, Staff

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APPEARANCES CONTINUED

STAFF

Mary Madison-Johnson, Supervisor, Permitting and  
Inspection Branch

Matt McCarron, Staff

Wes Mindermann, Supervisor, Permitting and Enforcement  
Division

Jim Lee, Deputy Director, Special Waste Division

Howard Levenson, Deputy Director, Permitting and  
Enforcement

Steve Levine, Staff, Legal Office

Dianne Ohiosumua, Staff

Doug Ralston, Manager, Information Management Branch

Pat Schiavo, Deputy Director, Diversion, Planning, and  
Local Assistance

John Sitts, Branch Manager, Financial Assistance Branch

Bernie Vlach

Sharon Waddell, Board Secretary

Scott Walker, Branch Manager, Permitting and Inforcement  
Division

Anna Ward, Staff, Special Waste Division

Shirley Willd-Wagner, Branch Manager, Special Waste  
Division

ALSO PRESENT

Harvey Brodsky, Tire Retread Information Bureau

Donald Gambelin, Norcal Waste, San Bruno Garbage Company

Karen Gerbosi, Beebee Family Ranch

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APPEARANCES CONTINUED

ALSO PRESENT

Janet Goss, Director, Orange County Integrated Waste  
Management Department

Denise Kennedy, Waste Recovery West, Inc.

Susan Hagan, Sonoma County RCD

Mark Korte, Tri C Tire Recycling

Ken Koyama, California Energy Commission

Terry Leveille, TL & Associates

Kathy Lowrey, Prunuske Chatham

Greg Shirley, LEA

Diane Wilson, LEA, Kern County

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1 PROCEEDINGS

2 CHAIRPERSON MOULTON-PATTERSON: Good morning.

3 I'd like to call our meeting to order, please.

4 Please call the roll.

5 SECRETARY WADDELL: Jones?

6 BOARD MEMBER JONES: Here.

7 SECRETARY WADDELL: Medina?

8 BOARD MEMBER MEDINA: Here.

9 SECRETARY WADDELL: Paparian?

10 BOARD MEMBER PAPARIAN: Here.

11 SECRETARY WADDELL: Peace?

12 BOARD MEMBER PEACE: Here.

13 SECRETARY WADDELL: Moulton-Patterson?

14 CHAIRPERSON MOULTON-PATTERSON: Here.

15 If you'd please join me for the flag salute.

16 (Thereupon the Pledge of Allegiance was  
17 Recited in Unison.)

18 CHAIRPERSON MOULTON-PATTERSON: Thank you. And I

19 ask that you turn off your cell phones and pagers for the

20 meeting. We do have agendas on the back table, and we

21 also have speaker slips. If you'd like to speak on an

22 item, please fill out a speaker slip. Let us know the

23 agenda item. Give it to Ms. Waddell, who's over here, and

24 she'll make sure that we know when you'd like to speak.

25 Ex partes, members.

1 Mr. Jones.

2 BOARD MEMBER JONES: Thank you, Madam Chair.

3 Most of mine were up to date, but as of this morning, Don  
4 Gambelin, Tom Vogt, Janet Goss, and Mark Aprea all on  
5 permit issues.

6 CHAIRPERSON MOULTON-PATTERSON: Thank you.

7 Ms. Peace.

8 BOARD MEMBER PEACE: Yes. Yesterday I talked to  
9 Terry Leveille regarding the Waste Tire Manifest System.

10 CHAIRPERSON MOULTON-PATTERSON: I'm up to date,  
11 except I said hello so Jan Goss this morning.

12 Mr. Medina.

13 BOARD MEMBER MEDINA: I'm up to date.

14 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian.

15 BOARD MEMBER PAPARIAN: I'm up to date.

16 CHAIRPERSON MOULTON-PATTERSON: Okay. Fine.

17 Mr. Jones, do you have a report you'd like to  
18 give this morning?

19 BOARD MEMBER JONES: Thanks, Madam Chair. I  
20 think I will because you never know, this might be my last  
21 Board meeting. Just a couple things.

22 On January 16th, I participated in the SWANA  
23 Senior Executive Seminar in San Francisco. It was pretty  
24 unreal from one standpoint. U.S. EPA is actually going to  
25 start looking more seriously at sustainability and

1 recycling issues. They've been pretty focused on  
2 hazardous waste issues for the last ten years, and there's  
3 a real movement to start getting a little bit more  
4 involved and setting a national trend on recycling and  
5 sustainability. And a comment was made that as a member  
6 of a California policy-making Board, we may actually get  
7 to the point where we're in the middle or part of the  
8 crowd, instead of always leading, which I thought was  
9 pretty good from U.S. EPA.

10 January 30th, the Board as well as DTSC had a  
11 group, a Finish delegation, talking about different  
12 issues, and I participated in that. I want to thank those  
13 folks.

14 And then I don't remember the date, but the RCRC  
15 dinner where they put -- RCRC is the Regional Council of  
16 Rural Counties -- where they put in their new officers for  
17 the year, these are counties in rurals. They acknowledged  
18 Kyle Poque of our staff for his outstanding work as a real  
19 resource to the Regional Council -- or the Regional  
20 Counties. And I think it was well deserved, and it was  
21 clear that all those members clearly appreciated Kyle's  
22 work. So congratulations to him on that award.

23 CHAIRPERSON MOULTON-PATTERSON: Thank you,  
24 Mr. Jones.

25 Ms. Peace.

1           BOARD MEMBER PEACE: Since the last Board  
2 meeting, I toured the Inland Regional MRF and Transfer  
3 Station in Colton. Also in Colton, I toured  
4 California-Portland Cement Company, and not only saw how  
5 they made cement, but I also saw how to use 2 million  
6 waste tires as a fuel source.

7           I visited the Paradise Creek Education Park in  
8 National City where, in conjunction with the local  
9 elementary schools, students are taught the importance of  
10 caring for the creek, the native habitat, and their  
11 environment.

12           I also toured the proposed site for the Gregory  
13 Canyon Landfill in San Diego County, where they're also  
14 concerned about the creek and their native habitat.

15           And last week I spent a day at the SWANA  
16 Symposium in San Diego where I heard some real informative  
17 talks, like using a routing system software to analyze  
18 collection costs and define procurement areas and routes.  
19 It sure seems to me that the same kind of software could  
20 be used to make the DRS system more accurate. I also  
21 found that talks on integrating composting with landfill  
22 operations and in-vessel composting to be very  
23 interesting. These talks tended to fuel this vision I  
24 have in my head of landfills as factories where everything  
25 coming through the landfill gate would be MRFed,

1 composted, digested, and converted to the fullest extent  
2 possible before it was ever put into a hole in the ground.

3           Also, as Chair of the Public Outreach and  
4 Education Committee, my staff and I have been spending  
5 quite a bit of time on getting the Environmental Education  
6 Bill 1548 off the ground. AB 1548 went into effect  
7 January 1st of this year. And it puts both CalEPA and the  
8 Board in charge of implementing the bill. The most urgent  
9 requirement is to develop environmental education  
10 principles which will be the basis for a model curriculum.  
11 These principles are being designed with a  
12 multi-disciplinary approach to show that environmental  
13 education concepts can actually help teachers teach  
14 existing academic content standards.

15           Board staff, including Trish Broddrick, my  
16 office, Linda's office, and Andrea Lewis from CalEPA have  
17 been putting the process together, which is very complex,  
18 to say the least. If you know anything about using the  
19 "E" word in education, it's a very difficult thing to do.  
20 We met yesterday with the author, Assemblywoman Pavely, to  
21 give her an update on how things are going. And we also  
22 met with Secretary Riordan to garner support for the  
23 ongoing negotiations.

24           That concludes my report.

25           CHAIRPERSON MOULTON-PATTERSON: Thank you, Ms.

1 Peace.

2 I'm going to go slightly out of order and call  
3 myself right now, because I did want to -- before our  
4 meeting went any further, to announce the hiring of our  
5 new Chief Counsel, Marie Carter, who's right over here.  
6 And Marie is going to be doing a wonderful job for us as  
7 Chief Counsel. She's been serving in the Legal Office for  
8 some time. We had some excellent applicants, and it was a  
9 very, very difficult decision and everyone on our legal  
10 team is just superb. And just going through the process  
11 was so reassuring for me, and I know you'll all want to  
12 wish Marie good luck.

13 And thank you, Marie.

14 Okay. Mr. Medina.

15 BOARD MEMBER MEDINA: Thank you, Madam Chair. I  
16 have nothing to report at this time.

17 CHAIRPERSON MOULTON-PATTERSON: Thank you.

18 Mr. Paparian.

19 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.

20 On January 21st, I helped present the WRAP Award  
21 to the Turtle Bay Museum located in Redding. Like the  
22 many other WRAP events, I want to really compliment our  
23 staff for putting together some really fine events for  
24 some very deserving participants. Roni Java, I think,  
25 deserves credit for putting these things together.

1           Turtle Bay itself is an amazing facility. I  
2 highly recommend it to anybody who gets up into the  
3 Redding area. You may know about the new bridge across  
4 the Sacramento River, the pedestrian bridge that was built  
5 up there and is scheduled to open in July. It really,  
6 really looks fabulous, and I think it will make a real  
7 architectural and artistic mark on the north state.  
8 That's just a little sidelight on the facility itself.  
9 The facility itself does use a lot of recycled material.  
10 They used a lot of green building design on their new  
11 facilities, and they do a lot of environmental education,  
12 which, as everybody knows, is very important to our  
13 activities.

14           On February 5th, I attended the RPPC workshop  
15 that was put together by staff very quickly in response to  
16 direction we gave at our January Board meeting. And I  
17 think our staff should be commended, Michael Leon, Sue  
18 Ingle, and the rest of the Waste Prevention and Market  
19 Development staff who were able to put together this  
20 workshop so quickly. And I think they did a really  
21 outstanding job of pulling together and soliciting the  
22 views of the many participants in the plastics area.

23           On February 6th, there was another E-waste  
24 stakeholder meeting. We'll be talking about that more  
25 later today. I'll hold some comments on that.



1           On February 9th and 10th, I attended what may  
2 have been the last NEPSI, National Electronic Product  
3 Stewardship Initiative, meeting in Portland. And I can go  
4 into that in some more detail if anybody is interested.  
5 The upshot is that we agreed on a scope of products that  
6 ought to be there if there is a national system. And we  
7 left it at this point to the electronics and -- consumer  
8 electronics industry to come forward with a more flushed  
9 out suggestion on how to finance a national system in a  
10 way that accommodates the needs of all the major players  
11 in the electronics industry. The industry has said they  
12 believe they can do this in the next few weeks. We'll see  
13 if they actually are able to do that. We may have more  
14 action on NEPSI.

15           And finally, together with the Public Affairs  
16 staff, I met with some very creative folks down in  
17 Los Angeles at a meeting facilitated by Frank Simpson,  
18 where we talked about what I think may be some very  
19 intriguing ideas, very intriguing directions we might be  
20 able to go in with regards to our public outreach, public  
21 affairs type programs. And I think we'll be hearing more  
22 about that in the coming months.

23           CHAIRPERSON MOULTON-PATTERSON: Thank you,  
24 Mr. Paparian.

25           Mr. Washington.

1           BOARD MEMBER WASHINGTON: Thank you.

2           January 16th, I also had the privilege of  
3 presenting a WRAP of the Year Award to Hitachi Corporation  
4 in Torrance, California. And it was an exciting time to  
5 see so many elected officials and business folks there  
6 from the South Bay Area who is very involved with the WRAP  
7 awards and making sure that those folks are doing a great  
8 job out in the Torrance area.

9           Also, January 19th, I toured the city of Arvin in  
10 Kern County. I spent a day down there in Kern County with  
11 the City folks from the city of Arvin, which is an  
12 eye-opener for me in terms of the population down there  
13 and the type of work those folks are really trying to do  
14 to get brought back up to par.

15           Also, January 30th, I toured the transfer station  
16 in the city of Colton, which is in San Bernardino County.

17           Then, February 13th, I went back to the County of  
18 San Bernardino and visited the Bass Recycling, Inc., which  
19 I know the Integrated Waste Board is very familiar with  
20 Bass and their work that deals with tires down in Southern  
21 California.

22           And also Madam Chair, on February 20th, I'll be  
23 presenting another WRAP of the Year Award to the Toyota  
24 Company. And I think -- I'm not for sure, and I'm looking  
25 at Roni to see if it's for sure if the Secretary will be

1 joining me. Secretary Tamminen will join me in the  
2 presentation for this Toyota Corporation on February the  
3 20th. And so that was my participation.

4 And then do you want me to make my presentation?

5 CHAIRPERSON MOULTON-PATTERSON: Are you going to  
6 make a presentation?

7 BOARD MEMBER WASHINGTON: Let me also announce --  
8 I don't know if she's in the audience, Yvette DiCarlo. I  
9 want to thank her for the year she gave me in my office.  
10 Yvette has left me to join the E-waste family and to try  
11 to get E-waste off the ground, which is very exciting for  
12 all of us. I want to thank her for the year she gave to  
13 my office and helping assist me along the way. I really  
14 am grateful for all the work she's done to help us.

15 As you know, Madam Chair, we try to honor  
16 individuals in our agency who has done something that I  
17 believe is extraordinary and certainly deserving of  
18 special thanks. And today it is my pleasure to honor a  
19 man who has really given of himself, and I do mean that  
20 literally.

21 When I first came to the Board and I met this  
22 gentleman, one of the issues he had to face was a  
23 situation down in Southern California. It was called the  
24 Exotic New Castle Disease. And there was an outbreak down  
25 there, and this gentleman went down and he took care of

1 this. But one of the things he did -- and I believe it  
2 was in the Resolution, which is very important. It says,  
3 "He left his family on Christmas Eve to go to the command  
4 center to assist in assuring large quantities of dead  
5 birds and other materials were disposed of properly so the  
6 outbreak would not spread."

7 "Whereas, Bernie Vlach's efforts during this  
8 emergency helps stream the threat to California poultry  
9 industry as well the entire United States poultry and egg  
10 supply."

11 And it says this, "Now, therefore, be it  
12 resolved, by Assemblyman John Longfield, that Bernie be  
13 extended the deep appreciation for his dedicated and  
14 responsiveness to leave to quarantine and the efforts to  
15 deal with this disease and that he be recognized and  
16 thanked for his hard work in managing this crisis that was  
17 down in Southern California."

18 So Madam Chair, it gives me great honor to  
19 present to Bernie a Resolution. Bernie, if you would join  
20 me. Let's give Bernie a hand.

21 (Applause)

22 BOARD MEMBER WASHINGTON: And I told Bernie when  
23 I first met him, I said, "Where are you going?" He said,  
24 "I have to go back down to Southern California. I have to  
25 leave my family." I told him, "I wouldn't do it."

1           And so we are grateful for him and for his hard  
2 work. And Bernie, on behalf of the Legislature, they  
3 present this Resolution to you from the Assemblyman John  
4 Longfield for the great work you've done and will go down  
5 in history. This is the only Resolution that will lie in  
6 the archives of the State of California. This is your  
7 member's Resolution Number 621.

8           (Applause)

9           MR. VLACH: Thank you. I remember the day when I  
10 got the call from Mark Leary and he asked me if I could do  
11 this. And I said, "Well, it's really part of the job."  
12 And I just can't -- this is just part of the job. Thank  
13 you very much.

14           CHAIRPERSON MOULTON-PATTERSON: Thank you,  
15 Bernie. We appreciate it very much.

16           BOARD MEMBER WASHINGTON: If members would join  
17 us for a photo with our staff, I'd appreciate it.

18           (Thereupon, a photograph was taken.)

19           CHAIRPERSON MOULTON-PATTERSON: Congratulations  
20 to Bernie.

21           And we have so many staff members that give 110  
22 percent every day they're here that we just really can't  
23 thank you all enough. I'm just continually so impressed  
24 with our staff members and commitment they have for the  
25 environment.

1 I did want to just say briefly that I appreciate  
2 so much what Board Member Peace has been doing in the way  
3 of education. As you know, I've been a real believer in  
4 environmental education for a long time. And you know, my  
5 career has shown that and the Board has always supported  
6 me on that. And I appreciate that very much.

7 But Cheryl has come on and really taken a real  
8 leadership role in this. Cheryl and her staff have worked  
9 very hard with my staff. They really have worked a lot on  
10 this. And I think you'll all be very proud when you see  
11 the finished product in environmental education. I just  
12 want to thank you, Cheryl, because I know it's complex and  
13 it takes a lot of time and commitment. And I thank you.

14 And we did have a good initial meeting with  
15 Secretary Riordan yesterday and really think that's a real  
16 good first step. So thank you, Cheryl.

17 And with that, I will turn it over to Mr. Larry,  
18 our Executive Director.

19 EXECUTIVE DIRECTOR LEARY: Thank you, Madam  
20 Chair. Good morning, members. And let me just say thanks  
21 on behalf of all the staff for those very positive  
22 comments of yours, Madam Chair, and all the members.

23 I, too, Bernie, remember that phone call. And I  
24 dreaded making that phone call, believe me, on Christmas  
25 to you and your family. But I, too, appreciate that.

1 There was not a moment of hesitation in Bernie's voice  
2 when he contemplated leaving his family that day to go  
3 respond to the situation. So I will echo the sentiments  
4 expressed by Board Member Washington.

5 And also Board Member Jones, with the mention of  
6 Kyle Poque, is very much appreciated because that truly  
7 also was an outstanding honor for Kyle. And again, a  
8 compliment to our entire staff.

9 The news of the hour involves a number of things.  
10 I'd like to report on emergency waivers, once again, as  
11 well as some comments on our diversion rate. We have a  
12 short videotape today on the 2136 cleanup, and I'd like to  
13 also talk a little bit about our Integrated Waste  
14 Management Account Fund condition.

15 Firstly, I need to report on some emergency  
16 waivers on permit terms and conditions once again in  
17 relation to cleanup efforts related to the fire storms  
18 late last year in San Diego County. Our local enforcement  
19 agencies have approved 90-day extensions to exiting  
20 waivers for the Sycamore Landfill in the city of San Diego  
21 and in the county for the Otay and Ramona Landfills, as  
22 well as the Julia, Viejas, Palomar transfer stations. All  
23 six waivers allow increased hours of operation, tonnage,  
24 and traffic to accommodate large amounts debris from  
25 cleanup and rebuilding activities. Although the specific

1 dates vary slightly, these extensions are all effective  
2 until around late April.

3 I do want to note all three of the landfills have  
4 established construction, demolition, and inert processing  
5 activities to enhance their material recovery programs.  
6 As a final note on this item the, San Diego County LEA has  
7 rescinded previously-issued emergency waivers for the  
8 Barracks Junction, Boulevard, Camp, Palomar Mountain, and  
9 Ranchita rural bin sites after determining the waivers are  
10 no longer necessary.

11 In regards to the 2003 diversion rate estimate,  
12 I'd like to update you on progress regarding this  
13 calculation. Board staff has delayed calculation of the  
14 2003 statewide diversion rate until the beginning of  
15 March. This is pending some additional analysis related  
16 to increases in statewide disposal and economic activity  
17 effecting adjustment factors that may ultimately impact  
18 the overall diversion rate calculation.

19 First, construction activities increased  
20 dramatically in 2003, a sign of a recovering economy. The  
21 number of authorized housing permits rose 17 percent over  
22 the previous year. While this increase in construction  
23 activities is likely to be responsible for the increase in  
24 dispose, it may not be reflected in the factors aboard  
25 uses and its approved adjustment method. Staff is



1 currently investigating whether or not this is the case.

2 Another factor that may impact diversion rate  
3 estimates is the Internet, or E-commerce activity. The  
4 adjustment method includes taxable sales as an important  
5 factor, and much of E-commerce activity does not pay sales  
6 tax, and thus is not included in our taxable tax sales  
7 adjustment. Many federal and state agencies expect  
8 E-commerce to continue to increase. Therefore, this will  
9 continue to be an important issue for the Board.

10 Staff is currently investigating the increase in  
11 E-commerce and its impact on the adjustment method  
12 factors. Increased disposal and economic activities that  
13 does not include adjustment factors may lead to a decrease  
14 in the diversion rate. Because of these issues, staff is  
15 looking at possible use of alternative adjustment factors  
16 to calculate future diversion rates. Completing this task  
17 will require a focused effort on the part of Board staff  
18 and potential contractors.

19 In the 2136 area, on January 14th, staff in the  
20 Board's AB 2136 Program conducted a unique cleanup in the  
21 Red Rock State Park in Mojave. This project was approved  
22 by the Board last May 1st -- or May. Eight car bodies and  
23 other debris were air-lifted out of the canyon by a  
24 helicopter. At least one of the vehicles was more than  
25 300 feet down a canyon face. We have prepared a short

1 video of the airlift operation because it was so unique.

2 And I'd like to play it for you now.

3 (Thereupon, a video presentation was played.)

4 CHAIRPERSON MOULTON-PATTERSON: That's great.

5 Thank you.

6 EXECUTIVE DIRECTOR LEARY: I assume there wasn't

7 any Board staff piloting that helicopter. Wes?

8 PERMITTING AND ENFORCEMENT DIVISION SUPERVISOR

9 MINDERMAN: That's correct.

10 EXECUTIVE DIRECTOR LEARY: Thank you.

11 Lastly, I'd like to share some good news with you

12 about the condition of our Integrated Waste Management

13 Fund. As a consequence of some very serious belt

14 tightening by you and the entire organization at the

15 direction of Executive Staff since the beginning of the

16 fiscal year, we've made some significant savings. We may

17 actually have a surplus based on projected expenditures.

18 Our current estimate based on realistic estimates

19 about spending to the end of the year is that there will

20 be something in the neighborhood of a million dollars

21 available for concepts to focus on the Board's highest

22 priorities. Because of the limited time available to

23 encumber these moneys, we have to have these moneys

24 encumbered by the end of the fiscal year. I propose that

25 we, as the Executive Team, bring concepts forward for your

1 consideration next month in particular support of your  
2 efforts meet the legislative requirements of Senate Bill  
3 20, the E-waste bill and AB 1548, the environmental  
4 education bill.

5           One additional concept we expect to bring forward  
6 is also a proposal that has to do with our enforcement,  
7 and our market staff are developing to assist LEAs in the  
8 regulation of the difficult odor problems at compost  
9 facilities. Again, I'll be working with our Executive  
10 staff to streamline this process and move quickly to  
11 encumber this money. And we feel we have a good sense of  
12 the Board's highest priorities, and we'll reflect on those  
13 efforts at the March Board meeting.

14           A little more information in regards to this odor  
15 problem, our LEAs are responding to increasing incidents  
16 of odor complaints. This may be a part of a planning  
17 issue due to the urban encroachment of residential areas  
18 near compost operations in more populated area of the  
19 state. However, there are measures within our control  
20 that can mitigate some of these critical odor problems.  
21 Some of the LEAs have expressed concern that they're  
22 having more difficulty solving odor problems, and some of  
23 them would like to see this authority shifted back to  
24 local air districts.

25           This would pose a major change since odor and

1 nuisance response at compost facilities is the primary  
2 authority of the Board. The Board is best suited for  
3 overseeing these solid waste facilities, while at the same  
4 time promoting diversion opportunities that result in  
5 waste reduction in order to achieve our zero waste goal  
6 for the state of California. We need to carry out this  
7 mission by ensuring that composting facilities are good  
8 neighbors and by giving our LEAs practical tools to deal  
9 with the difficult problem like odor compliance. Again,  
10 we'll be bringing the scope of work before the Board for  
11 your consideration in March that outlines our solution to  
12 address this critical issue.

13 With that, Madam Chair, I'll conclude my  
14 Executive Director's Report. Are there any questions?

15 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.  
16 Leary. I see no questions.

17 I do want to announce that the Board will be  
18 meeting on Tuesday, March 16th in San Jose. This will  
19 afford us an opportunity to tour the Silicon Valley and  
20 some of the facilities in that area. There will be no  
21 Committee meetings in March at this time. It's the intent  
22 to start Committees back up in April.

23 So on to the agenda. Consent Items 7, 12, 15, 21  
24 and 23 are proposed for consent.

25 Items 1 through 6, 8 through 11, 13, 14, 22, 24,

1 and 25 will being heard by the full Board.

2           There will be a closed session today, and I'll  
3 talk with my colleagues about the best time. I think it  
4 will probably be after lunch to discuss personnel issues  
5 pursuant to Government Code 11126(a)(1), and litigation  
6 matters, which are Government Code 11126(e).

7           Again, the consent calendar as proposed is items  
8 7, 12, 15, 21 and 23.

9           Mr. Paparian, did you wish to pull something?

10          BOARD MEMBER PAPARIAN: Yeah. Thank you, Madam  
11 Chair. I wanted to pull Item 7. And just so everybody  
12 knows, it's not for a substantive reason other than I  
13 think our regulations ought to be not voted on on the  
14 consent calendar but rather by the full Board. And maybe  
15 at some time we can figure out a process for that. So  
16 hopefully staff will make a very brief presentation.

17          CHAIRPERSON MOULTON-PATTERSON: Item 7 is pulled  
18 off consent. I now have on consent 12, 15 through 21 --  
19 and I'm not sure I read it like that the first time. 12,  
20 15 through 21 and 23 are now on the proposed consent  
21 agenda. I see no other members that wish to pull.

22          May I have a motion for the consent agenda?

23          Mr. Jones.

24          BOARD MEMBER JONES: Madam Chair, I'd like to  
25 move adoption of consent calendar.

1 CHAIRPERSON MOULTON-PATTERSON: Thank you. I'll  
2 second it.

3 We have a motion by Mr. Jones, seconded by  
4 Moulton-Patterson to approve the consent items, 12, 15  
5 through 21 and 23.

6 Please call the roll.

7 SECRETARY WADDELL: Jones?

8 BOARD MEMBER JONES: Aye.

9 SECRETARY WADDELL: Medina?

10 BOARD MEMBER MEDINA: Aye.

11 SECRETARY WADDELL: Paparian?

12 BOARD MEMBER PAPARIAN: Aye.

13 SECRETARY WADDELL: Peace?

14 BOARD MEMBER PEACE: Aye.

15 SECRETARY WADDELL: Washington?

16 BOARD MEMBER WASHINGTON: Aye.

17 SECRETARY WADDELL: Moulton-Patterson?

18 CHAIRPERSON MOULTON-PATTERSON: Aye.

19 There won't be any Committee reports today.

20 Unless somebody tells me otherwise, there were no meetings  
21 this month.

22 With that, we will start with Mr. Lee, Item  
23 Number 1. Good morning.

24 DEPUTY DIRECTOR LEE: Good morning, Madam Chair,  
25 and members of the Board. Jim Lee with the Special Waste

1 Division.

2 Board Item 1, Consideration of the Scope of Work  
3 and Contractor for the Phase V of the Boating Clean and  
4 Green Campaign, Fiscal Year 2003-2004, Used Oil Program  
5 Contract Concept Number 15.

6 This program continues a successful partnership  
7 in collaboration with the California Coastal Commission,  
8 providing continued support for GIS-based mapping of  
9 marina facilities, purchase and distribution of new boater  
10 kits, and the Coastal Commission's Clean and Green  
11 Campaign and Dock Walkers Program.

12 Staff is available to respond to any questions or  
13 to make a more comprehensive presentation, if you desire.  
14 Otherwise, staff recommends that the Board approve  
15 Resolution 2004-59, approving the scope of work, and  
16 Resolution 2004-60, approving the Coastal Commission as  
17 contractor for the identified work. Staff also asks that  
18 you please include in both of your motions that the  
19 authorized funding level for this type of work with the  
20 Coastal Commission is 50,000.

21 CHAIRPERSON MOULTON-PATTERSON: Thank you.

22 Mr. Paparian, and then I'd like to move the  
23 motion.

24 BOARD MEMBER PAPARIAN: Go ahead.

25 CHAIRPERSON MOULTON-PATTERSON: I just wanted to

1 have the privilege of moving Resolution 2004-59. I know  
2 what a good job the Coastal Commission does on this, and I  
3 had five years on that Commission. And they do a fabulous  
4 job. And I've seen this program in action since I've been  
5 on this Board. And I just would heartily recommend that  
6 we approve this at the \$50,000 level. And it's Resolution  
7 2004-59.

8 Mr. Paparian, did you wish to second?

9 BOARD MEMBER PAPARIAN: Second.

10 CHAIRPERSON MOULTON-PATTERSON: We have a motion  
11 by Moulton-Patterson, second by Paparian.

12 Please call the roll.

13 SECRETARY WADDELL: Jones?

14 BOARD MEMBER JONES: Aye.

15 SECRETARY WADDELL: Medina?

16 BOARD MEMBER MEDINA: Aye.

17 SECRETARY WADDELL: Paparian?

18 BOARD MEMBER PAPARIAN: Aye.

19 SECRETARY WADDELL: Peace?

20 BOARD MEMBER PEACE: Aye.

21 SECRETARY WADDELL: Washington?

22 BOARD MEMBER WASHINGTON: Aye.

23 SECRETARY WADDELL: Moulton-Patterson?

24 CHAIRPERSON MOULTON-PATTERSON: Aye.

25 Thank you. Number 2. I'm sorry. Oh, 60.



1 Excuse me. Thank you. I'd like to move Resolution  
2 2004-60, which Mr. Paparian seconds. And please  
3 substitute the previous roll call without objection.  
4 Thank you.

5 Number 2.

6 DEPUTY DIRECTOR LEE: Board Item 2 is Discussion  
7 and Request for Rulemaking Direction to Notice for 45-Day  
8 Comment Period Proposed Amendments to the CIWMB Household  
9 Hazardous Waste Data Collection Sheet, Form 303.

10 Anna Ward of the Used Oil staff will make the  
11 staff presentation.

12 MS. WARD: This item seeks to be in the formal  
13 rulemaking process and noticed proposed changes to the  
14 regulations for form CIWMB 303. The form has been in  
15 place for over ten years. We did make -- basically, we  
16 haven't made any major changes to it. About six years  
17 ago, DTSC became a collaborator with the form and also  
18 managing a database with us. So at that point we did add  
19 DTSC in with our program. But other than that, we didn't  
20 make any changes to the form itself.

21 So what we are doing now will help to clarify the  
22 form, to add some new waste streams, which include  
23 universal waste and all electronic waste. We will also be  
24 then deleting the instructions that are in regulation. I  
25 believe they should have never been there. Most of them

1 are points that have been sited in regulation, and it has  
2 held our hands -- it's kept our hands tied in terms of  
3 being able to clarify some of the points we needed for our  
4 local government.

5           So with this, as we began this process, we went  
6 to both of the HHW exchanges in Northern and Southern  
7 California and solicited input, as well as went on to our  
8 listserve that includes mostly all of the jurisdictions in  
9 the state. And from that, we received about 20 different  
10 comments from the proposed changes that we were going to  
11 make. And by and large -- and we resolved any questions  
12 that anybody had, because these are all to compliment the  
13 programs that our local governments as they fill out their  
14 forms to give us the waste volume totals.

15           With that, there are several options that the  
16 Board can take, but we would like to have the Board  
17 approve Option 1, to direct staff to begin the process to  
18 notice a 45-day comment period for proposed changes to  
19 Form 303.

20           Is there any questions?

21           CHAIRPERSON MOULTON-PATTERSON: Thank you. I see  
22 no questions. So I would like to, without objection,  
23 direct staff to begin the process to notice the 45-day  
24 comment period for proposed changes to Form 303. And  
25 thank you for your explanation.

1           Number 3.

2           DEPUTY DIRECTOR LEE: Thank you, Madam Chair.  
3 Board Item 3, Consideration of the Scope of Work and  
4 Interagency Agreement with the California Energy  
5 Commission for the Study of Rolling Resistance  
6 Characteristics in Tires, Tire Recycling Management Fund,  
7 Fiscal Year 2003-2004 and 2004-2005.

8           Mitch Delmage of the Tire Branch will make the  
9 staff presentation.

10          WASTE TIRE DIVERSION SUPERVISOR DELMAGE: Good  
11 morning, Madam Chair. And I'm Mitch Delmage with the  
12 Special Waste Division's Waste Tire Program. Ken Koyama  
13 is here from the Energy Commission to answer any questions  
14 you might have at the end of my presentation.

15          Today I'll present staff's recommendations for  
16 approving a scope of work for the study of rolling  
17 resistance characteristics in tires and approving an  
18 interagency agreement with the California Energy  
19 Commission to oversee this study.

20          The purpose of the study will be to determine  
21 what effects changes in rolling resistance may have on  
22 other tire characteristics, such as longevity, traction,  
23 safety, and cost. Based on the results of the study, the  
24 Commission in consultation with the Board will make  
25 recommendations regarding what characteristics to look for

1 when purchasing replacement tires. The state's fleet,  
2 businesses, and the general public can use this  
3 information generated from the study.

4 By way of background, Senate Bill 1170 authorized  
5 the Commission to investigate opportunities for increasing  
6 the usage of low rolling resistance tires in California.  
7 Later in February of 2003, the Commission met with Board  
8 staff to discuss the mutual benefits of doing low rolling  
9 resistance tire testing.

10 Then in May of the same year, the Board approved  
11 the Five-Year Plan for the Waste Tire Recycling Management  
12 Program, which allocated \$200,000 per year for  
13 investigating ways to accomplish the Boards's goal of  
14 increasing the life span of tires while not adversely  
15 effecting the Commission's goal of fuel efficient tires.  
16 While everyone agreed that proper tire pressure, rotation,  
17 and maintenance were the most cost effective and  
18 expeditious ways to get the best out of each tire, other  
19 more technical means needed to be investigated.

20 A total of \$400,000 from the Tire Recycling  
21 Management Fund for Fiscal Years 2003-04, and 2004-05 were  
22 earmarked for this task.

23 Further, on October 1st of 2003, the Governor  
24 signed Assembly Bill 844, which required the Commission in  
25 consultation with the Board to adopt replacement tire

1 efficiency standards that would be designed to ensure that  
2 replacement tires sold in California are as energy  
3 efficient as original equipment tires. However, these  
4 standards must not adversely effect tire safety, the  
5 average life of replacement tires, or State efforts  
6 managing scrap tires.

7           To accomplish this balancing act, the Commission  
8 will have a contractor test original equipment and  
9 replacement tires; collect and analyze the data; determine  
10 any relationships between rolling resistance and other  
11 tire characteristics, such as longevity, traction, safety,  
12 and costs; develop a database detailing the impacts,  
13 changes rolling resistance might have on these other  
14 characteristics; and prepare a report with recommendations  
15 on environmentally-sound tire purchasing decisions for the  
16 State's fleet as well as the private sector and general  
17 public.

18           Staff recommends that the Board approve the  
19 proposed scope of work and the interagency agreement with  
20 the Commission for the study of rolling resistance  
21 characteristics in tires and adopt Resolutions 2004-006  
22 and 2004-007.

23           This concludes my presentation. If you have any  
24 questions, be glad to answer them.

25           CHAIRPERSON MOULTON-PATTERSON: Thank you.

1 Ms. Peace.

2 BOARD MEMBER PEACE: I just had some questions.

3 So we're supposed to be doing this study in  
4 consultation -- well, actually, the Energy Commission is  
5 supposed to be consulting us with the study. How much  
6 money is the Energy Commission putting into the study?

7 WASTE TIRE DIVERSION SUPERVISOR DELMAGE: They  
8 have no monies available for this study. They will be  
9 putting in time and effort from staff level and  
10 management.

11 BOARD MEMBER PEACE: The bill doesn't says we  
12 have to put in money for it? It just says the Energy  
13 Commission has to do this study in consultation with us?

14 WASTE TIRE DIVERSION SUPERVISOR DELMAGE:  
15 Correct.

16 BOARD MEMBER PEACE: I guess I still have some  
17 questions on exactly what we're going to do with these  
18 recommendations. It seems to me, aren't there already  
19 some studies out there on tire longevity -- and I mean,  
20 Consumer Reports doesn't have any studies on this stuff?  
21 Aren't there studies anywhere else?

22 WASTE TIRE DIVERSION SUPERVISOR DELMAGE: I  
23 understand that there are studies on tire longevity, but  
24 there are, as I understand it, not detailed studies on  
25 what we'll be looking at.

1 Ken Koyama may be able to go into more detail on  
2 that.

3 CHAIRPERSON MOULTON-PATTERSON: Thank you.  
4 Please go ahead.

5 State your name for the record, please, when you  
6 can get that on.

7 MR. KOYAMA: Good morning. My name is Ken  
8 Koyama, K-o-y-a-m-a. I'm with the California Energy  
9 Commission.

10 Just in reference to our ability to provide  
11 funding for this study, had we had additional funds to do  
12 this work, we certainly would. As you might know, our  
13 agency is tight with our budget, as all the other  
14 agencies. We do feel that there's mutual benefits to both  
15 of our agencies on this particular study.

16 With regard to your question on previous studies  
17 that have -- on tire life, we have attempted to try to  
18 find correlation and data for rolling resistance in  
19 combination with tire life, what are the impact of lower  
20 rolling resistance tires are with longevity. We have not  
21 been able to find any data at all on rolling resistance.  
22 In fact, the data for tire life has been sparse, and we're  
23 not sure of the accuracy of the data for tire life as  
24 well.

25 So what our study attempts to do is to find

1 correlations between tire life and lower rolling  
2 resistance. The tire manufacturers have told us that  
3 those tires that go on original equipment, new vehicles,  
4 have lower tire life than those that you get with your  
5 replacement tires. So we're attempting to try to find,  
6 through statistical data, whether that's an accurate  
7 statement or not. Our --

8 BOARD MEMBER PEACE: Sure seems to me that tire  
9 manufacturers know that.

10 MR. KOYAMA: We asked. The data -- we asked the  
11 tire manufacturers to provide us with this data. And  
12 again, we did not get any tire manufacturers to give us  
13 that data. In fact, they have told us in a number of  
14 letters to us that that tire data does not exist. I'm  
15 talking only about rolling resistance data, and this is  
16 just for replacement tires.

17 You may be aware that new tires have to go  
18 through specific manufacturers' specifications. We asked  
19 for that data. That data was considered to be  
20 proprietary, in that if any data was to come about, you  
21 have to go through the automobile manufacturers. So we  
22 asked them. They would not give us that information for  
23 competitive purposes.

24 So our ability to try to find this data looks  
25 like it has to come through third-party testing. That's



1 what we're proposing with this bill, with this money.

2 BOARD MEMBER PEACE: Once they do the study and  
3 they make these correlations, then what are we going to do  
4 with this research and recommendations?

5 MR. KOYAMA: Well, one of the things we're trying  
6 to find out is if there is a direct correlation between  
7 low rolling resistance tires and lowering of tire life or  
8 lowering of safety, we have the ability to stop the  
9 rulemaking process to set efficiency standards for the  
10 tires. If we find there is no correlation, that lower  
11 rolling resistance tires and tire life are not related,  
12 then we can proceed with setting efficiency standards for  
13 these tires and, therefore, have replacement tires at  
14 least as efficient as those tires that you get from your  
15 new vehicles. So it then fulfills our requirement under  
16 AB 844 to set efficiency standards.

17 DEPUTY DIRECTOR LEE: Ms. Peace, if I can add  
18 another angle on this particular situation. You may  
19 recall some of the discussions that came up during the  
20 Five-Year Plan reveal. And the original proposal  
21 involving the Energy Commission was just basically looking  
22 at evaluating low rolling resistance with the eye on  
23 increasing fuel efficiency. Staff raised some objections  
24 to that proposal, because it seemed to disregard our  
25 agency's main concerns.

1 BOARD MEMBER PEACE: Longevity of tires.

2 DEPUTY DIRECTOR LEE: So at the same time, there  
3 was the AB 844 legislation that was going through  
4 Assemblyman Nation's bill, and it didn't speak to our  
5 agency's concerns. However, through negotiations with the  
6 Energy Commission and discussions with Assemblyman  
7 Nation's office, the bill was revised. And I think that  
8 the Energy Commission and the Waste Board staff arrived at  
9 the scope of work and interagency agreements we're putting  
10 forward for you today. We feel it's a good compromise in  
11 addressing the needs of both agencies and is responsive,  
12 again, to the legislation.

13 So we feel it's come a long way from, you know,  
14 where the discussions originally started on this  
15 particular issue. And we feel as it's currently put  
16 forth, we'll bring potential benefits to both agencies.

17 BOARD MEMBER PEACE: You're not going to make any  
18 recommendations by tire. You're going to do all these  
19 studies on different tires. You won't say this tire lasts  
20 longer than this tire, or this tire gets better fuel  
21 efficiency than the other tire. You're taking all this  
22 stuff and you're just going to be making efficiency  
23 standards which will tell manufacturers you have to meet  
24 these standards?

25 MR. KOYAMA: Right. That's what we understand

1 the bill requires us to do, is to set these efficiency  
2 standards. And to us, that means what the minimum or  
3 maximum lower rolling resistance should be on each tire  
4 sold here in California. If they don't meet that, then  
5 they either have to face a penalty or not be able to sell  
6 that tire in California.

7           DEPUTY DIRECTOR LEE: One final point on that,  
8 Ms. Peace, I want to bring up. One thing that, again, we  
9 as the Waste Board staffers are looking for this study to  
10 show is this correlation. There is some speculation that  
11 a low rolling resistance tire does not have the long life.  
12 And therefore, it will become a waste tire sooner than  
13 might otherwise be expected. By doing this study, we will  
14 have some quantitative information to provide support for  
15 that hypothesis or refute it.

16           BOARD MEMBER PEACE: I guess I realize that in  
17 this political climate getting a half a mile or mile per  
18 gallon better fuel efficiency out of our replacement  
19 tires, this is at least something, I guess, when you  
20 multiply it by the millions of tires we have in  
21 California. But wouldn't it be much better if the  
22 Legislature just enforced the CAFE standards? We'd sure  
23 be getting a lot more --

24           MR. KOYAMA: Well, of course. CAFE is a federal  
25 requirement. It's not a California requirement. But you

1 know, there's a couple of things we could do. One is that  
2 with lower rolling resistance tires at least we provide  
3 some consumers adequate information that when they go and  
4 purchase tires, they have this information that's not  
5 there right now.

6 BOARD MEMBER PEACE: So I'm a consumer. What  
7 information are you giving me -- I'm a consumer. I'm  
8 going to go buy a tire. What information is this study  
9 going to give me?

10 MR. KOYAMA: One of the things we hope to do is  
11 have a rating system that says to you, the consumer, that  
12 this tire has an energy star label on it, which  
13 corresponds to --

14 BOARD MEMBER PEACE: Who's going to give that  
15 tire the energy star?

16 MR. KOYAMA: This will be set up through our  
17 rating system. The manufacturers would be required to  
18 determine what rating that particular tire has.

19 BOARD MEMBER PEACE: We'll put out a brochure and  
20 we'll say this tire gets this star for this, and this tire  
21 gets this star for longevity, and this one gets a star for  
22 fuel efficiency.

23 MR. KOYAMA: That would be one of the things that  
24 would come out of this report.

25 BOARD MEMBER PEACE: As the tires change every

1 year and the manufacturers make their changes to their  
2 lines every year, then you have to do another study every  
3 year and --

4 MR. KOYAMA: No. Once we do this correlation  
5 study, that's the extent of that study. We can then say  
6 we would like to see more fuel efficient tires out there  
7 through these standards. And then manufacturers would  
8 then be required to test their tires for rolling  
9 resistance and determine whether or not it's an energy  
10 star tire or not. It would provide the consumers with  
11 that additional piece of information that says that I can  
12 increase my fuel economy by 1 to 3 percent with the use of  
13 these tires.

14 BOARD MEMBER PEACE: I guess that we're mandated  
15 by this bill to do this. But I could see it could be one  
16 of those things that the Legislature requires us to do,  
17 but then they turn around and criticize us for spending  
18 money on a study that probably really isn't going to be  
19 that useful.

20 CHAIRPERSON MOULTON-PATTERSON: Thank you, Ms.  
21 Peace.

22 Mr. Koyama, I appreciate your comments. And just  
23 if I could reserve you at the mic for just a moment.

24 Board members, we're going to have to go back to  
25 our old fashion way. Let me know if you want to speak.

1 This is temporarily not working, so I have no idea if any  
2 of you wanted to speak.

3 Mr. Jones, and then we'll go to our public  
4 speaker.

5 BOARD MEMBER JONES: Thanks, Madam Chair.

6 Tire pressure to is critical to tire use. If you  
7 look at what the biggest problem is with tires and their  
8 early demise as well as their rolling efficiency, they all  
9 go back to tire pressure. So as part of your report, as  
10 part of your study, are you going to test these tires, not  
11 only at the tire pressure that's recommended, which that  
12 pressure is recommended per vehicle, not what the maximum  
13 tire is, and then deflate that then to compare how it's  
14 going to ride?

15 Because without that, this is an invalid study.  
16 It's a waste of taxpayer dollars because -- I mean,  
17 efficient rolling tires are going to have a different  
18 surface on the ground than what a replacement tire would  
19 have. And as that tire loses air pressure, the middle is  
20 going to pop up and those slides are going to run. Every  
21 one of those variations is going to cause a difference in  
22 rolling resistance. I mean, that's not brain surgery.  
23 That's just the logical way that something that rolls is  
24 going to work.

25 Is your report going to get into those tire

1 pressure issues? Because what you may be feeling under  
2 optimum conditions as the most efficient could, in fact,  
3 be the least efficient when the air is deflated and it's  
4 not running at its proper air pressure.

5 MR. KOYAMA: We looked at that exact question in  
6 our earlier study. And through various modeling runs that  
7 we've done with the National Renewable Energy Lab, we've  
8 determined that with low rolling resistance tires we are  
9 still able to get an energy savings benefit under all  
10 pressures, given comparisons to pressure with higher  
11 rolling resistance tires, if you will. So we believe that  
12 question has been answered in our earlier study; one,  
13 that, yes, tire pressure is an important way to maintain  
14 your fuel efficiency of the vehicle; and two, that if you  
15 have a designed lower rolling resistance tire, you will be  
16 able to improve your fuel economy on the vehicle.

17 BOARD MEMBER JONES: If it's underinflated?

18 MR. KOYAMA: Well, again, when you compare the  
19 same pressure on an underinflated lower rolling resistance  
20 tire and an underinflated higher rolling resistance tire,  
21 there is still an efficiency improvement. So it's  
22 incumbent upon consumers to keep the tire pressure  
23 maintained throughout the life of the tire, if you will.  
24 And that's just for fuel economy purposes. It's for  
25 safety and tire longevity, et cetera.

1           Again, we believe the questions that you asked on  
2 the tire pressures have been answered. Yes, there is a  
3 penalty fuel-economy wise for lower pressure in tires.  
4 Our study is to look at those tires that have been  
5 designed for lower rolling resistance.

6           BOARD MEMBER JONES: Right. But part of what you  
7 have to check against is what's the impact on safety?  
8 What's the impact on longevity? What's the impact to that  
9 tire life? And if you don't do the tire pressure check  
10 when you're checking the low rolling resistance against  
11 the replacement tires, the construction of that tire is  
12 going to be different than what's on the market right now.  
13 But did your study look at the longevity of the tire when  
14 it's underinflated?

15           MR. KOYAMA: Again, there are studies available  
16 now that shows the correlation between underinflated tires  
17 and lowering the longevity of the tires. And that's a  
18 given. We don't have any --

19           BOARD MEMBER JONES: But is it accelerated when  
20 you're looking at these low rolling resistance tires?

21           MR. KOYAMA: We don't believe it's even a linear  
22 relationship. We believe it accelerates at a higher rate  
23 than linearly with underinflation. That, to us, is not  
24 even an issue for us to quibble about. Our concern,  
25 again, is with the designed lower rolling resistance



1 tires.

2 BOARD MEMBER JONES: But if the majority of tires  
3 are underinflated, and the majority are, then what good is  
4 it to have a low rolling resistant tire that can be  
5 severely impacted by low air pressure versus a replacement  
6 tire that may not be impacted as drastically?

7 MR. KOYAMA: Again, this is a requirement that we  
8 have to have some kind of an information campaign that  
9 says for all tires, regardless of whether it's lower  
10 rolling resistance or not, you have to maintain your tire.  
11 That includes rotation and proper inflation, et cetera.  
12 We have no argument with that. Our intention is not to  
13 show that you should ignore that just because you have  
14 lower rolling resistance tires. In fact, we fully support  
15 tire manufacturers' efforts in that public education  
16 campaign to maintaining people's tires.

17 So let me just add too that in our study -- in  
18 our previous study we found that if all tires that were  
19 underinflated here in California, we probably would save  
20 something like 10 million gallons a year of gasoline. On  
21 the other hand if, we had lower rolling resistance tires  
22 being purchased by consumers, we believe we could save  
23 about 100 million gallons of gasoline a year. There is a  
24 substantial energy benefit with just the use of lower  
25 rolling resistance tires based on the models we've run.

1 You're right. It is absolutely incumbent upon consumers  
2 to keep the tires properly inflated.

3 BOARD MEMBER JONES: But it's not going to be  
4 part of the study.

5 MR. KOYAMA: Well, we don't believe that needs to  
6 be studied, because those issues have been studied. And  
7 there's no question about the lower energy -- the  
8 efficiency and lowering of tire life with underinflated  
9 tires.

10 BOARD MEMBER JONES: Right. I understand what  
11 you're saying. I don't think you're getting what I'm  
12 saying. You didn't test against the low rolling resistant  
13 tire, which is going to be built differently, than what  
14 the normal tires in the replacement market are. So you  
15 have no data as to how quickly those tires are going to  
16 run out their useful life if they are underinflated.

17 If you make a requirement that all tires must  
18 meet your standard, but yet, you don't look at what the  
19 impact is on this tire for longevity when you underinflate  
20 it and you've run this test, this support, for this  
21 standard, it doesn't make any sense to me, because you're  
22 not looking at all of the pieces.

23 And that is the number one reason why we have so  
24 many tires in our marketplace -- or in the waste tire  
25 arena is because they're underinflated. It has to have an

1 impact on low rolling resistant tires other than the  
2 things that you've stated or the things that I've stated.  
3 There's not going to be any test, it looks like, that says  
4 what the impact to that tire is going to be if it's  
5 underinflated versus the replacement market.

6 BOARD MEMBER PEACE: Yeah. Mr. Jones makes a  
7 very good point. Maybe in the study you should be testing  
8 these tires in their optimum inflated condition and then  
9 do the same tests with the tires is what the average  
10 person's tires would be, because most of us don't fill up  
11 our tires the way we're supposed to. Would you get the  
12 same results? Would you get different results?

13 MR. KOYAMA: Yes. Yes, we could do that test.  
14 But let me state again, we believe those kinds of tests  
15 have been done and the data is available --

16 BOARD MEMBER PEACE: Have those tests been done  
17 on --

18 MR. KOYAMA: On lower rolling resistant tires  
19 specifically, we'd have to go back and take a look at the  
20 data. I would imagine there were some lower rolling  
21 resistance tires that were part of those tests. But the  
22 data is pretty consistent on tires across the board. It  
23 does show that with underinflation you do increase your  
24 energy use. You do increase -- or decrease tire life. I  
25 don't think --

1           BOARD MEMBER PEACE: I don't think we're arguing  
2 with that.

3           MR. KOYAMA: Well, my concern, though, is if we  
4 decide to do this additional test that's already been done  
5 and there's no issue with that -- I guess maybe I'm  
6 missing the point here.

7           BOARD MEMBER PEACE: Maybe if you give a tire a  
8 star, you know, for being energy efficient in it's optimum  
9 inflated condition, would it still get that star if it was  
10 underinflated? Will it still be -- that same tire get  
11 that same star in an underinflated condition? Or would  
12 maybe another tire get the star when it's underinflated?

13          MR. KOYAMA: We would have to give that tire an  
14 energy star label, because we're not in control of how  
15 consumers take care of their tires.

16          BOARD MEMBER PEACE: Back to the star thing, when  
17 the study sets these energy efficiency standards and  
18 you're telling the manufacturers they have to meet these  
19 standard to get this star, and then you just told me  
20 you're trying to get information from the manufacturers,  
21 you know, regarding this stuff and they won't give it to  
22 you, how do we know they're really producing tires that  
23 meet the energy efficiency standard we're setting to get  
24 that star if they say they don't have to give us any  
25 information?

1           MR. KOYAMA: What we plan to do, we have an  
2 appliance program at the Energy Commission where there are  
3 energy challenges to manufacturers that say if somebody  
4 believes that this has been given an energy star label  
5 erroneously, the manufacturers -- is incumbent upon the  
6 manufacturer to show us that that appliance meets the  
7 energy star requirements.

8           We would see the same kind of thing here. If a  
9 tire manufacturer labels a tire with an energy star label,  
10 then somebody else decides to challenge the manufacturer,  
11 it's incumbent upon the manufacturer to provide us with  
12 that data that shows this deserves to be an energy star  
13 tire.

14          DEPUTY DIRECTOR LEE: I'd like to just say one  
15 thing with regards to this, maybe provide a little  
16 different perspective for Ken and ask him a question that  
17 he can respond to.

18          I think I understand very clearly what the Board  
19 Members Peace and Jones are saying. Again, the assumption  
20 behind the study is that we acknowledge that underinflated  
21 tires are going to have adverse -- are going to be  
22 adversely affected. Let me restate that. If tires were  
23 underinflated, longevity and other desirable tire  
24 characteristics are going to be adversely impacted.  
25 That's regardless of whether or not it's a low rolling

1 resistance tire or a different tire.

2 But I think the question that you are asking is,  
3 are low rolling resistance tires disproportionately  
4 impacted if they are run in the usual condition of  
5 underinflation? And I think that's a very good question.  
6 So the question I guess for Ken is, for us to do the  
7 additional test, as Ms. Peace suggested, both the optimum  
8 and something less than optimum, how does that affect the  
9 number of tests you're going to be able to carry out and  
10 the funding levels we have available for this?

11 MR. KOYAMA: Yeah. We did a preliminary analysis  
12 on that in our first study, on the underinflation of low  
13 rolling resistance tires. And again, we found there is  
14 still an energy benefit if you assume that a tire that's  
15 not lower rolling resistant has the same underinflation.  
16 So based on the same pressures from two different sets of  
17 tires, we still get an energy benefit on lower rolling  
18 resistance tires.

19 DEPUTY DIRECTOR LEE: Did you check with regards  
20 to the other characteristics that are the most concern to  
21 this agency the longevity of the tire, was that something  
22 that was looked at as part --

23 MR. KOYAMA: No, not as part of our previous  
24 study.

25 BOARD MEMBER JONES: That's the point.

1           CHAIRPERSON MOULTON-PATTERSON: Thank you.

2 Mr. Koyama, you've answered a lot of my questions in your  
3 presentation, and I'd like to reserve you if there are  
4 other questions.

5           I'm going to be calling on Mr. Paparian in just a  
6 moment.

7           Mr. Lee, for me, again, this is an Assembly Bill,  
8 right, 844? And this is required by the Assembly Bill?

9           DEPUTY DIRECTOR LEE: Yes.

10          CHAIRPERSON MOULTON-PATTERSON: Thank you.

11 Mr. Paparian, and then I'm going to call on the public  
12 speakers.

13          BOARD MEMBER PAPARIAN: I just wanted to follow  
14 up on that last point and make sure I understand this. If  
15 you have a low rolling resistance and a traditional tire,  
16 and you operate them each at a few pounds under this  
17 suggested -- you know, if you operate them the way that a  
18 consumer might operate them, a few less pounds less than  
19 they ought to be. I think what I heard you say -- but I  
20 want to be sure I understand it -- you looked at that and  
21 found that, you know, there wasn't that -- they still  
22 operated comparable to each other. You know, the low  
23 rolling resistance with a few pounds under was still lower  
24 rolling resistance than the one that was a traditional  
25 tire?

1           MR. KOYAMA: Forgive me. That is -- yeah.  
2   You're paraphrasing it correctly. What we found was that  
3   if a lower rolling resistance tire, say, is at 20 pounds  
4   and a traditional tire is at 20 pounds, we found that you  
5   still get some energy efficiency improvement with the  
6   lower rolling resistance tire than you would with the  
7   other tire at the same tire pressure.

8           Now, of course, if you maintain the tire  
9   pressures for both tires, you know, you get increased  
10  benefits on lower rolling resistance tires than you would  
11  with the traditional tire. So at some point if you have  
12  the tire underinflated at such a point that it's really  
13  flat, then forget it. All bets are off.

14          BOARD MEMBER PAPARIAN: Right. So I'm  
15  sympathetic with what Mr. Jones was suggesting, but I'm  
16  also a hearing a lot of that has been done. We know the  
17  relationship between low rolling resistance and non-low  
18  rolling resistance maintains itself. You've already  
19  looked at that as the tire pressure goes down.

20          MR. KOYAMA: Mr. Lee is right. We did not look  
21  at longevity. We only looked at energy savings. That's  
22  something we can add into the study.

23          BOARD MEMBER PAPARIAN: In terms of the tire  
24  manufacturers, we've had the very same problem. We had  
25  the tire manufacturers testify on the record before this



1 Board they would get us information on recycled content in  
2 their tires, and they then subsequently refused to give it  
3 to us. You know -- so I mean, I'm sympathetic to what the  
4 Energy Commission is experiencing in being unable to get  
5 the tire manufacturers to be forthcoming with information  
6 they ought to be forthcoming about.

7 BOARD MEMBER PEACE: Could we clarify, this  
8 bill -- it requires the Energy Commission to do this study  
9 in consultation with us. It doesn't require us to do the  
10 study.

11 MR. KOYAMA: That's correct. It requires the  
12 Energy Commission.

13 BOARD MEMBER PEACE: It doesn't require us to put  
14 any money into it. It just requires the Energy Commission  
15 to consult with us.

16 MR. KOYAMA: That's correct.

17 CHAIRPERSON MOULTON-PATTERSON: Thank you.

18 Mr. Terry Leveille from TL & Associates. Good  
19 morning, Mr. Leveille.

20 MR. LEVEILLE: Hi, Madam Chair and Board members.  
21 Terry Leveille, for the record, representing the  
22 California Tire Dealers Association, which are sort of the  
23 north and south, which are sort of in between the  
24 manufacturers -- the tire manufacturers on one side and  
25 the consumers on the other.

1           We were very involved in the discussions over AB  
2 844 throughout the process. We felt that the RMA maybe  
3 should have been more forthcoming, and they, indeed, had  
4 some more studies on this. But as tire dealers, they were  
5 primarily concerned about the fact that the bill, as it  
6 was originally intended, would limit the ability of them  
7 to sell certain tires, mainly aftermarket tires they  
8 currently sell.

9           Secondly, they were concerned about the fact that  
10 the tire fee, which basically they collect and give to the  
11 Board of Equalization and ultimately to the Board, was  
12 going to be used for this study. And without -- they're  
13 always concerned about where their tire fee money goes.  
14 And they didn't feel it was appropriate that the Energy  
15 Commission would be able to conduct a study with this tire  
16 fee money, or at least work out some sort of a sharing  
17 arrangement.

18           One of the reasons the bill finally ended up  
19 getting through was that the RMA reached agreement with  
20 the CEC and with the author that they would conduct, not  
21 the lab studies the CEC is doing, but they would conduct  
22 real world practical studies. And so the RMA, my  
23 assumption is, is going to be working with the Energy  
24 Commission to develop at their own expense field studies  
25 in the same manner that the Energy Commission is going to

1 be doing their lab studies.

2           And this may be -- in fact, if it's worked out  
3 right, this may be one way to ease some of the concerns  
4 that you have voiced. Because I know that was an issue  
5 that the RMA was concerned about when this bill was going  
6 through, was that lab studies would not accurately define  
7 the longevity of a tire and the safety of a tire,  
8 particularly when in the real world, tires are run at one  
9 or two or three pounds less than they should be. So that  
10 may be something you might want to pursue in terms of a  
11 discussion as you deliberate on this particular issue.

12           Overall, with the Board's involvement, with  
13 staff's involvement in selecting the contractor with the  
14 Energy Commission, we feel comfortable that the issues  
15 that we were concerned about, that the tire dealers were  
16 concerned about, namely longevity and tire safety, are  
17 going to be dealt with and are going to be analyzed. And  
18 as the bill was originally proposed, was just going to be  
19 focused on the low rolling resistant aspect of it. But  
20 you know, it's one of these things that might call for  
21 some more investigation because there is, indeed, going to  
22 be another study going on in concert with the current one  
23 we're talking about today.

24           CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.  
25 Leveille.

1           Ms. Peace.

2           BOARD MEMBER PEACE: Terry, did you say that the  
3 tire dealers were concerned about this study, that they  
4 wouldn't be able to sell certain tires?

5           MR. LEVEILLE: Well, the original intent of the  
6 bill was to develop a standard for low rolling resistant  
7 tires that would be basically the focus of all tire sales  
8 in California would have to meet a certain minimum energy  
9 efficiency.

10          BOARD MEMBER PEACE: Why would the dealers be  
11 concerned about this and not the manufacturers?

12          MR. LEVEILLE: They were. The manufacturers  
13 were. This is --

14          BOARD MEMBER PEACE: They weren't that concerned,  
15 because they didn't give us any information.

16          MR. LEVEILLE: Well, you know, I don't know  
17 whether they have proprietary information. I mean, the  
18 tire dealers are sort of the whipping boys in this whole  
19 thing. They went back and forth. They were concerned  
20 with the ability to be able to market their tires. They  
21 were concerned with if there were some certain standards,  
22 minimum fuel efficiency standards set in 2007, or whatever  
23 the initial deadline was, was that these tires were going  
24 to be more expensive. They may lead to, particularly down  
25 in Southern California, less ability of consumers to

1 purchase them. There was a whole variety of concerns.  
2 And a number of tire dealers just mentioned just the  
3 ability to market any type of tire, whether they be  
4 performance tires, longevity tires. It should be up to  
5 the free market. That was their concern. And we were  
6 working with that 800-pound gorilla, the RMA, throughout  
7 these deliberations. And you know, the major concern now,  
8 of course, was the fact that we are paying for it with our  
9 tire fund fees.

10 CHAIRPERSON MOULTON-PATTERSON: Thank you,  
11 Mr. Leveille.

12 Mr. Koyama, did you wish to comment?

13 MR. KOYAMA: Yeah. I just want to say that when  
14 the RMA came to us and asked us whether they could conduct  
15 this field study, we certainly welcomed this additional  
16 input.

17 Our concern, though, is that the field study may  
18 not be able to control all factors regarding fuel economy,  
19 such as whether the car is properly maintained or has  
20 certain attributes or whether the driving cycles are  
21 similar, et cetera. In order to determine whether or not  
22 tires by themselves can increase fuel efficiency, we need  
23 to take a look at the tire specifically, the tire and the  
24 rolling resistance, et cetera.

25 So our position is that in order for us to set an

1 efficiency standard for these tires, we need the lab data  
2 to set that standard.

3 CHAIRPERSON MOULTON-PATTERSON: Thank you.

4 Mr. Lee, if this does go through, you'd be  
5 working with the Energy Commission on this and keeping  
6 track of everything?

7 DEPUTY DIRECTOR LEE: Most definitely, Madam  
8 Chair.

9 CHAIRPERSON MOULTON-PATTERSON: Did you wish to  
10 speak, Mr. Delmage? And then I'm going to turn it over to  
11 Mr. Paparian.

12 WASTE TIRE DIVERSION SUPERVISOR DELMAGE: I just  
13 wanted to correct something that I misspoke in my  
14 presentation on the Resolution number. It's Resolution  
15 number 2004-006 and 2004-058.

16 CHAIRPERSON MOULTON-PATTERSON: Yes. Thank you.  
17 I think that's still wrong. Let me just see. Is it  
18 2004-58 and 2004-07; is that correct? Okay. Thank you.

19 Mr. Paparian.

20 BOARD MEMBER PAPARIAN: Now Madam Chair, I'm  
21 ready to move the motion. I think it was an important  
22 component of the Five-Year Tire Plan. We discussed it in  
23 this context quite a bit. And I think that the study --  
24 if you look at the history of the study, it's actually  
25 been improved to our, the Waste Board's, benefit as it's

1 moved along, as the 844 moved along, and as the study was  
2 designed and put together. We're going to need to have  
3 some continuing input. And Mr. Lee, you know, suggests  
4 that he will assure that we have that input. And I think  
5 perhaps some regular reports back to the Board about how  
6 it's going, I think would be appropriate.

7 But I'm ready to move Resolution 2004-58 related  
8 to the scope of work with the Energy Commission for the  
9 study of rolling resistance characteristics in tires.

10 CHAIRPERSON MOULTON-PATTERSON: I know we have  
11 speakers. I'm going to go ahead and second it for purpose  
12 of discussion.

13 Mr. Medina and then Ms. Peace.

14 BOARD MEMBER MEDINA: Thank you, Madam Chair.

15 When this item came before the Five-Year Tire  
16 Committee, I just wanted to let Board Member Peace know  
17 that we had -- Board Member Washington and I raised a lot  
18 of the same concerns she did in regard to this item. And  
19 particularly in regard to the tire manufacturers and the  
20 auto manufacturers being compelled in some way to provide  
21 full information, because they know the design of the  
22 tires. They know the composition of the tires. And they  
23 know how the tires perform under different conditions.  
24 That's one of the reasons why when a new car is sold and  
25 they post the mileage on the window sticker, they already

1 know that particular tire will perform in such a way in  
2 regard to the gas mileage.

3 So we were -- again, I just wanted to let Board  
4 Member Peace know she was on the right track in asking  
5 these questions, and I'm glad we had a fuller discussion  
6 on this matter.

7 CHAIRPERSON MOULTON-PATTERSON: Thank you,  
8 Mr. Medina.

9 Ms. Peace.

10 BOARD MEMBER PEACE: I just want to say that, you  
11 know, maybe what the Commission should be more concerned  
12 with in this study is what uses more quarts of oil, the  
13 new tires that we have to make to replace the ones that  
14 wear out sooner or the small bit of fuel efficiency that  
15 we're going to get with the replacement tires? I think  
16 that's something they should think about too.

17 But also, are they going to be doing these tests  
18 on an asphalt surface, or how do they do these tests?

19 MR. KOYAMA: No. They don't do it on an asphalt  
20 surface. It's done in a laboratory environment that's  
21 done on these rollers. It's designed to test the force  
22 that the tires withstand to determine what kind of  
23 resistance they get. So what you're referring to are  
24 those that probably would be more appropriate in the field  
25 tests that RMA is conducting.



1 BOARD MEMBER PEACE: So in the field tests, since  
2 we're trying to push RAC, do you think it would be a good  
3 idea when they do these field tests we should also be  
4 performing these same studies on a RAC surface?

5 MR. KOYAMA: I have to admit I'm not totally  
6 familiar with your jargon about what RAC is.

7 BOARD MEMBER PEACE: Rubberized asphalt concrete.

8 MR. KOYAMA: We can certainly suggest it to RMA,  
9 that that would be an appropriate test for us to take  
10 on -- for them to take.

11 BOARD MEMBER PEACE: As you're trying to push  
12 Caltrans to use more RAC, some of these questions might  
13 come up. Even if we don't like the answers, I think we  
14 should know what they are.

15 MR. KOYAMA: Yeah. Let me also add the bill  
16 requires us to take a look at the correlations. If we  
17 find with the Board's consultation that lower rolling  
18 resistance tires does cause tire life to decrease, we then  
19 have a finding that says we will not do efficiency  
20 standards for these tires. So the bill gives us a lot of  
21 outs if we find there's adverse impacts to recycling, to  
22 tire life, to safety, et cetera.

23 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

24 BOARD MEMBER JONES: Thanks, Madam Chair.

25 I think that the discussion about the low air

1 pressure, especially if these are going to be lab tested,  
2 are even more imperative. Because our mission is an  
3 integrated one that not only talks about the longevity of  
4 tires to keep them on the road, but we do support more  
5 energy efficient tires. But they've got to go hand in  
6 hand. And ignoring that pressure issue is going to make  
7 it a flood study. So I don't know if that's being  
8 included, if it's going to be included, or what.

9 DEPUTY DIRECTOR LEE: Mr. Jones, I think that  
10 will have to be included as part of an amended motion.

11 BOARD MEMBER JONES: So the only way that gets  
12 in, the longevity which talks about what we deal with, is  
13 if we amend this motion?

14 DEPUTY DIRECTOR LEE: In my opinion, unless I  
15 defer to legal on that.

16 BOARD MEMBER JONES: That's fine. Thanks.

17 CHAIRPERSON MOULTON-PATTERSON: Any legal  
18 problems?

19 CHIEF COUNSEL CARTER: Marie Carter for the Legal  
20 Office. No, I agree with Mr. Lee. That would be the  
21 better way to ensure that the changes to the scope get  
22 incorporated into the bill.

23 CHAIRPERSON MOULTON-PATTERSON: I'll ask the  
24 maker of the motion.

25 BOARD MEMBER PAPARIAN: That's fine.

1 CHAIRPERSON MOULTON-PATTERSON: And I seconded  
2 it. It's fine with me. I think everyone has spoken.

3 Would you please call the roll on this with the  
4 amendment. Please call the roll.

5 SECRETARY WADDELL: Jones?

6 BOARD MEMBER JONES: Aye.

7 SECRETARY WADDELL: Medina?

8 BOARD MEMBER MEDINA: Aye.

9 SECRETARY WADDELL: Paparian?

10 BOARD MEMBER PAPARIAN: Aye.

11 SECRETARY WADDELL: Peace?

12 BOARD MEMBER PEACE: Aye.

13 SECRETARY WADDELL: Washington?

14 BOARD MEMBER WASHINGTON: Aye.

15 SECRETARY WADDELL: Moulton-Patterson?

16 CHAIRPERSON MOULTON-PATTERSON: Aye.

17 I thank you. I think the Board discussion really  
18 added something to it.

19 BOARD MEMBER PAPARIAN: Madam Chair, we have a  
20 second motion, 2004-07. I'll move that motion.

21 CHAIRPERSON MOULTON-PATTERSON: Okay. And I'll  
22 second it. And we'll --

23 BOARD MEMBER JONES: That includes the amendment.

24 CHAIRPERSON MOULTON-PATTERSON: That includes --  
25 yes. We'll substitute the previous roll call. I thank

1 you for your patience, and we're going to be having a  
2 10-minute break right now. Thank you.

3 (Thereupon a recess was taken.)

4 CHAIRPERSON MOULTON-PATTERSON: I'd like to call  
5 the meeting back to order, please.

6 Mr. Jones, do you have any ex partes?

7 BOARD MEMBER JONES: Yes, Madam Chair. Evan  
8 Edgar and George Ewon and Denise Delmatier.

9 CHAIRPERSON MOULTON-PATTERSON: Okay. Ms. Peace.

10 BOARD MEMBER PEACE: I have none.

11 CHAIRPERSON MOULTON-PATTERSON: I said hello to  
12 Gary Jackamami.

13 Mr. Medina.

14 BOARD MEMBER MEDINA: None to report.

15 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian.

16 BOARD MEMBER PAPARIAN: Yeah. I spoke with Terry  
17 Leveille and Harvey Brodsky regarding Item 5 on the  
18 agenda. I also spoke with Don Gambelin about Item 9, and  
19 said hello to Chuck Helget.

20 CHAIRPERSON MOULTON-PATTERSON: Thank you.

21 Mr. Washington.

22 BOARD MEMBER WASHINGTON: Yeah. I said hello to  
23 Daphne Washington from Kern County Waste Management  
24 Department. Dennis Delmatier -- I'm sorry, Denise. John  
25 Cupps, Evan Edgar, as well as Ken Pretell. And also I

1 wanted to ex parte my dinner with Mark Aprea last night.

2 CHAIRPERSON MOULTON-PATTERSON: Thank you.

3 Number 4. We're back to Number 4.

4 DEPUTY DIRECTOR LEE: Thank you, Madam Chair.

5 Board Item 4, Report on the Status on the Remediation of  
6 the Sonoma County Waste Tire Sites.

7 This is an information item designed to brief the  
8 Board on developments on the Sonoma projects and receive  
9 your acknowledgement and affirmation on specific actions  
10 staff proposes to undertake on your behalf. These actions  
11 include the assumption of CEQA lead agency responsibility  
12 for one of the Group 1 sites, that is the Beebee family  
13 ranch site, and potentially some or all of the Group 2 and  
14 3 sites. Finally, we want to bring to your attention the  
15 timetables for cleanup and/or remediation of these sites,  
16 which, because of potential endangered species concerns  
17 and related permitting issue, won't be completed until the  
18 spring of 2005 at the earliest and could extend until the  
19 summer of 2007. We have asked the various Group 1  
20 landowners or their representatives to be here today to  
21 speak specifically to this timetable issue.

22 With that overview, I want to turn this over to  
23 Gale Grigsby of the Tire Branch and Steve Levine of the  
24 Legal Office, who will make the remainder of the staff  
25 presentation and introduce the other speakers.

1 (Thereupon an overhead presentation was  
2 presented as follows.)

3 MS. GRIGSBY: Good morning, Madam Chair and Board  
4 members. A little more history, the Sonoma County waste  
5 tire issue was formally heard before the Board at the July  
6 '03 Board meeting. The Board did provide direction and  
7 adopted Resolution 2003-383 revised.

8 The eight known waste tire sites in Sonoma County  
9 were split into three different groups; Group 1 having  
10 five sites; Group 2 having one site; and Group 3 having  
11 two sites. You'll hear from representatives of the  
12 landowners who will provide an update on the time line  
13 status of the projects. And staff will provide an update  
14 on the status of determining lead agency for CEQA for the  
15 projects. The Sonoma County RCD, Resource Conservation  
16 District, has been acting on behalf of four of the five  
17 property owners in Group 1. The Sonoma County RCD has  
18 also been facilitating the remediation of the Group 2  
19 site --

20 --o0o--

21 MS. GRIGSBY: -- and working with the Gold Ridge  
22 Resource Conservation District with the remediation of the  
23 Group 3 sites.

24 So with that, I'd like to introduce Susan Hagan.  
25 She is speaking on behalf of the Sonoma County RCD.

1           CHAIRPERSON MOULTON-PATTERSON: Thank you.

2                               --o0o--

3           MS. HAGAN: Good morning. Susan Hagan of  
4 Southern Sonoma County Resource Conservation District.  
5 Happy to be here today. There are a number of landowners  
6 who have come to participate today. We have been meeting  
7 and working with staff regularly and quite diligently on a  
8 number of these issues. Today I'd like to introduce Kathy  
9 Lowrey. She's an environmental planner with Prunuske  
10 Chatham. We have retained the services of this firm to  
11 assist us in the environmental review and the compliance,  
12 which is a major portion of our work right now. She will  
13 discuss the update and time line.

14          CHAIRPERSON MOULTON-PATTERSON: Thank you.

15          MS. LOWREY: Good morning. My name is Kathy  
16 Lowrey. If you will please direct your attention to the  
17 chart, you will see that there are five basic aspects to  
18 environmental compliance involved in these projects.

19          The Southern Sonoma RCD has agreed to undertake  
20 the background scoping and responsibility for CEQA  
21 compliance for seven of the eight sites; four of the Group  
22 1 sites, the one Group 2 site, and the two Group 3 sites.  
23 We have been in contact with the attorney for the RCD who  
24 has confirmed, I believe, to your Board in writing that  
25 this does comply with the CEQA requirements.

1           In order to begin the process, we have to do the  
2 background scoping. And that basically answers questions  
3 about a whole number of environmental issues that may be  
4 impacted by the project work. These issues start A for  
5 aesthetics and go W for water quality.

6           The ones that really are of interest in these  
7 sites and that are going to pose the most regulatory  
8 issues are biology, because we do have endangered species  
9 issues. Botany, we have on several sites the potential  
10 for host plants for these endangered butterflies. So all  
11 of these biological issues need to be addressed. In order  
12 to do that, the landowners have contracted with the RCD  
13 and with us to perform the biological evaluation. This  
14 has occurred on all seven of the sites that the RCD is  
15 working with.

16          The report is probably a week from being  
17 finished. We will come in ahead of schedule. We had  
18 promised to have it done at the end of February. We do  
19 have recommendations. There will be further biological  
20 studies. There will be focused botanical studies on all  
21 seven of the sites, and there will be some focused  
22 wildlife biology studies on others. Those will occur in  
23 May.

24          What will happen after that is that a document  
25 called the biological assessment will be prepared, and



1 this is the document that will be given to the Army Corps  
2 of Engineers and will begin the Section 7 under the  
3 Endangered Species Act consultation that is required for  
4 the Corps to issue a permit. And that is required under  
5 the Clean Water Act for the Regional Water Quality Control  
6 Board to issue their permits.

7           So you can see if we look at the bottom of the  
8 five products list, we have a whole list of permit  
9 submittals. We have quite a large cast of characters  
10 here. Fortunately, there is one application called a  
11 JARPA that can be submitted to the Corps, to the Regional  
12 Board, to the Department of Fish and Game, and the  
13 California Coastal Commission. They are the basic  
14 regulators. We also in Sonoma County have the Sonoma  
15 County PRMD. We will have to get grading permits for all  
16 of these projects. Were we in Napa County, we wouldn't  
17 have to do that. But in Sonoma County we will have to get  
18 grading permits.

19           All right. The next large background scoping  
20 item is cultural resources. Again, the land owners have  
21 contracted with the RCD and have already endangered  
22 archeological research services. They've completed their  
23 field survey and their written reports on six of the seven  
24 sites. And they are scheduled to go to the final, the  
25 seventh, which is the Wilson Beebee Ranch, one of the

1 Group 3 ranches. So we should, again, have that  
2 documentation in hand and be able to begin to determine  
3 potential adverse effects on both cultural and biological  
4 resources by mid-March.

5 Moving on, the RCD has also requested assistance  
6 from the USDA Natural Resource Conservation Service. They  
7 are -- they have been asked to provide the wetland  
8 delineation and get a requirement for the Corps permit, a  
9 requirement for the Fish and Game permit. This document  
10 will establish what are called waters of the U.S. and  
11 waters of the state under the jurisdiction of the Corps  
12 and the Department of Fish and Game respectively. They  
13 have also requested that the NRCS provide the soils report  
14 and the geotechnical background information that will be  
15 needed to both design the tire removal and the restoration  
16 after the removal of the tires. So this is in place. We  
17 have not yet received formal acknowledgement that NRCS is  
18 willing to provide these services, but we have formally  
19 requested this.

20 Basically, that's where we are to date. The  
21 really guiding factor in terms of the best and worst  
22 timing here, in my opinion, after having been doing this  
23 for about ten years, will be consultation with the U.S.  
24 Fish and Wildlife Service, which must occur at least for  
25 the red leg frog and possibly for the endangered

1 butterflies. It begins with the biological assessment  
2 that I described earlier. And after much consultation  
3 with them, they will provide the Army Corps of Engineers  
4 with a biological opinion. And in that opinion, we will  
5 be given the ability to "take," which means harass or move  
6 or, hopefully not, but sometimes kill an endangered  
7 species. This is a requirement of the Federal Endangered  
8 Species Act. This document and its conditions, which must  
9 be included in our CEQA document, is really going to be  
10 the guiding factor in terms of how fast we will be able to  
11 accomplish environmental compliance.

12           The other agencies are on board. U.S. Fish and  
13 Wildlife, by the way, is on board. They have seen the  
14 sites and are wanting to help us facilitate this. Never  
15 the less, their staffing situation is extremely difficult,  
16 and the biological opinion is a very large and detailed  
17 document.

18           So with that, if you have questions, I'm happy to  
19 give you more information. But this is where we are at  
20 this point. Really, the first step, the first -- top is  
21 the background, and the other four, they happen  
22 concurrently. So we'll go to the Fish and Game. They'll  
23 give us back their conditions. That goes in the CEQA  
24 document. Similarly, we'll go to the Regional Water  
25 Quality Control Boards. We do have two boards involved.

1 They will give us their conditions. That's incorporated  
2 into the CEQA document. So that when the document goes to  
3 the public as well as to the other trustee and  
4 responsible agencies, the full information about the  
5 potential impacts and the mitigation as well as a  
6 monitoring and maintenance plan will be presented for  
7 public review.

8 CHAIRPERSON MOULTON-PATTERSON: Thank you,  
9 Ms. Lowrey.

10 Mr. Paparian.

11 BOARD MEMBER PAPARIAN: Just a quick question for  
12 clarification. You've got several sites grouped together,  
13 and you're doing some of the studies simultaneously.

14 MS. LOWREY: For the purpose of CEQA, yes.

15 BOARD MEMBER PAPARIAN: If there is a problem on  
16 one of those sites, will it hold back the rest of the  
17 sites, or will the rest of the sites be able to go forward  
18 more quickly?

19 MS. LOWREY: For this CEQA document, the entire  
20 project needs to be looked at as a whole. So when the RCD  
21 undertakes the project, all of the sites will be included  
22 in that document. Once we get to the permitting area, it  
23 is possible that we will section off projects that don't  
24 have the red leg frog issues, for example, from the others  
25 so that in the permitting process, it's possible that we

1 will not maintain this overall.

2           Although, I must say that in all of the reports  
3 and all of the field visits with the Corps, with the  
4 Regional Board, with the Department of Fish and Game, and  
5 with U.S. Fish and Wildlife Service, they have requested  
6 that we come to them as a total package. And their  
7 purpose, actually, is to assist us in creating mitigation  
8 and monitoring plans that will assist, for example, if a  
9 site doesn't really have an appropriate mitigation area  
10 for potential impacts, if we're coming in as a total  
11 project, then we can mitigate in an area where we are  
12 actually going to create some nice habitat, rather than  
13 trying to create some something just to fulfill the  
14 recommendation.

15           BOARD MEMBER PAPARIAN: I'm sympathetic with what  
16 you're suggesting. I just want to make sure if you get to  
17 a situation where one site could hold up the cleanup of  
18 the rest, that would make me very uncomfortable. I would  
19 want to get as many of the sites cleaned up as quickly as  
20 possible.

21           MS. LOWREY: Yes. And that is also the goal of  
22 both the RCD and the other leaders.

23           BOARD MEMBER PAPARIAN: Thank you.

24           CHAIRPERSON MOULTON-PATTERSON: Thank you.

25           MS. GRIGSBY: Next you'll hear from Karen

1 Gerbosi. She's one of the property owners of the waste  
2 tire site known as the Beebee Family Ranch site. This  
3 site is one of the Group 1 sites.

4 CHAIRPERSON MOULTON-PATTERSON: Thank you.  
5 Ms. Gerbosi.

6 MS. GERBOSI: Good morning. My name is Karen  
7 Gerbosi. I represent the Beebee Family Ranch, which is  
8 one of the Group 1 Sonoma County waste tire sites. Our  
9 ranch is owned by my brother and sister and me. A year  
10 and a half ago, in September of 2002, the Board held a  
11 public workshop in Santa Rosa to discuss the status and  
12 potential options for the Sonoma Legacy waste tire sites.  
13 After that meeting, we determined there were important  
14 actions we should start taking to move towards resolution.

15 The following are some of our major  
16 accomplishments in the last 18 months. We've retained EBA  
17 Engineering in November of 2002 to act as our primary  
18 consultant on the project. As part of their work, they've  
19 prepared a detailed site survey, topographical map,  
20 engineering design, and specifications for the remediation  
21 of the waste tire pile. At the same time, we retained  
22 Diane Renshaw, consulting ecologist. She has investigated  
23 our site and prepared a biological survey and  
24 jurisdictional wetland survey. These two surveys required  
25 site evaluation during all four seasons and were just

1 completed last year. These two surveys along with the  
2 mapping performed by EBA provide the foundation for  
3 various permit applications and restoration in erosion  
4 control design.

5 At EBA's recommendation, we retained  
6 Archeological Resource Service last August. And this firm  
7 has completed and delivered a cultural resource evaluation  
8 for our site.

9 In December, Diane Renshaw submitted the Wetland  
10 Delineation Report for our site to the U.S. Army Corps of  
11 Engineers for Army Corps verification. As part of the  
12 Army Corps review, their assigned project manager has  
13 conducted a site visit last month, requested some  
14 revisions, and these revisions were completed by  
15 Ms. Renshaw and EBA and revised documents were given to  
16 the Army Corps by the end of January. We retained RGH  
17 Geotechnical to evaluate the geotechnical aspects of our  
18 site. They've taken test borings, are now performing lab  
19 work, and are about to prepare a report of their analysis  
20 and recommendations.

21 We've also retained Rana Creek to design and  
22 implement restoration and erosion control. Ranicreek's  
23 design will be used to complete the CEQA initial study  
24 checklist and in preparation of the applications for the  
25 404, 401, and 1603 permits. Additionally, the Board's

1 tire removal contractor has prepared a preliminary work  
2 plan for the tire removal and provided it to us for our  
3 review.

4 Our next steps, I'm planning a work session for  
5 the first week of March to get together with my  
6 consultants and other key people, including Board staff,  
7 to work on strategic aspects of the project and other  
8 criteria for successfully completing our tire removal  
9 project. Board staff is working with me to schedule this.  
10 This work session is particularly essential for Rana Creek  
11 as they prepare their initial plan for the site  
12 restoration and erosion control.

13 We believe we'll receive the jurisdictional  
14 determination from the Army Corps by the end of February.  
15 And by the end of March we plan to have the necessary  
16 plans from RGH Geotec and Rana Creek to complete our 404  
17 individual permit application to the Army Corps. The Army  
18 Corps project manager told us we can expect the public  
19 comment and review process for the 404 permit to take  
20 eight months, which is two 30-day public comment periods,  
21 plus a 90- to 100-day review period. We project this  
22 review will be completed in December of this year.

23 After submitting the 404 application to the  
24 Corps, we plan to complete and submit our CEQA initial  
25 study checklist. We will then submit our application for



1 401 permit to the California Regional Water Quality  
2 Control Board and our application for the 1603 streambed  
3 alteration permit to California Fish and Game.

4 This time line has us on track for removal of  
5 tires from our ranch in the Spring of 2005 and even  
6 provides for several months of buffer to accommodate  
7 unforeseen delays. We very much appreciate the California  
8 Integrated Waste Management Board's continued commitment  
9 to the removal of tires from these Legacy tire sites, and  
10 we are very satisfied with the cooperation shown to us by  
11 Board staff. And we're pleased with the contribution that  
12 the monthly staff status meetings have contributed as  
13 well. Do you have any questions?

14 CHAIRPERSON MOULTON-PATTERSON: I don't see any,  
15 and we want to thank you for being here. It sounds like  
16 you've been working very hard and we appreciate that.

17 MS. GERBOSI: Yes, I have. Thank you.

18 CHAIRPERSON MOULTON-PATTERSON: Did you have any  
19 other speakers? I have no other speaker slips.

20 MS. GRIGSBY: Steve Levine is going to finish the  
21 staff presentation.

22 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.  
23 Mr. Levine.

24 MR. LEVINE: Good morning, Chair, Board members.  
25 Steve Levine from the Legal Office. The other aspect we

1 wanted to --

2 --o0o--

3 MR. LEVINE: -- discuss with you today are the  
4 CEQA led agency issues with respect to this project. It's  
5 at the juncture where a review of the various responsible  
6 agencies is made to determine which agency will serve as  
7 the lead agency. The lead agency determines, among other  
8 matters, whether a mitigated Negative Declaration is  
9 appropriate, whether an environmental impact report would  
10 be required and prepares and certifies the required CEQA  
11 documents.

12 --o0o--

13 MR. LEVINE: The Southern Sonoma Resource  
14 Conservation District has indicated its willingness to  
15 serve as lead agency for many of these sites. Two of the  
16 responsible agencies involved, apart from the Board here,  
17 is the Regional Water Quality Control Board and the  
18 Department of Fish and Game. And they have indicated they  
19 concur with RCD acting as lead agency for CEQA. RCD has  
20 also engaged a private attorney who has an attachment to  
21 this item that has submitted a legal opinion letter  
22 asserting that the RCD is qualified to serve as lead  
23 agency for CEQA. And based on the above, RCD is an  
24 acceptable choice for lead agency.

25 --o0o--



1 As you've heard, she's been on a time frame earlier than  
2 the rest of the sites, a year longer than the other sites,  
3 without the assistance of the RCD. Thus, RCD cannot be  
4 deemed to be qualified to act as lead based upon their  
5 carrying out these services on behalf of the Beebee Family  
6 Ranch. In light of the above, both the Beebee Family  
7 Ranch and the RCD have determined that the RCD would not  
8 be an appropriate lead agency for their site.

9 --o0o--

10 MR. LEVINE: This leaves the assumption of lead  
11 agency status for the Beebee Family Ranch to one of the  
12 remaining responsible agencies. It appears that neither  
13 the RWQCB, nor the Department of Fish and Game, the other  
14 responsible parties for this project, are responsible  
15 agencies. Neither of them are inclined to assume the role  
16 of lead.

17 In light of the above, staff is prepared to  
18 perform the functions of lead agency on behalf of the  
19 Board and envisions retaining a contractor to conduct the  
20 necessary environmental investigations and to prepare the  
21 necessary CEQA documents to assist in the performance of  
22 that role.

23 --o0o--

24 MR. LEVINE: As the matter of lead agency  
25 designation has only recently arisen and has not been

1 previously addressed with the Board, this item was  
2 prepared to assure that the Board is fully informed on  
3 these issues. Board staff and the Legal Office believe  
4 that the Board's assumption of lead agency status for the  
5 Beebee Family Ranch is a necessary step in accomplishing  
6 our goal of remediating this site.

7 Are there any questions on these CEQA issues?

8 CHAIRPERSON MOULTON-PATTERSON: Thank you. Any  
9 questions?

10 Mr. Jones and then Mr. Medina.

11 BOARD MEMBER JONES: Thanks, Madam Chair.

12 I think a couple of slides back you -- it was  
13 relayed that the landowners want RCD to be in the role of  
14 lead agency because it would keep the landowners costs  
15 down.

16 MR. LEVINE: My understanding is that RCD itself  
17 strongly believes that, and the landowners support this  
18 belief as well.

19 BOARD MEMBER JONES: I believe it, too. The  
20 problem is is that part of CEQA is how this is all going  
21 to be mitigated and how it's all going to be performed.  
22 And what we've basically done is open our checkbooks as  
23 the one that's going to do the work on these sites to  
24 remediate them. And so we are at the mercy of whatever  
25 comes through that document. You need to understand that.

1           MR. LEVINE: I believe what Mr. Jones is  
2 indicating -- and he is correct to the extent that we are  
3 involved with the removal of the waste tires on the site.  
4 Right now the arrangement, pursuant to the Board  
5 Resolution from last July, is that the landowners are  
6 entirely responsible for all aspects of restoration,  
7 mitigation, and compliance with regulatory agencies on  
8 these sites. The one exception is that the Board is going  
9 to be using a contractor to conduct the waste tire  
10 removal.

11           And Mr. Jones is absolutely correct that there  
12 are particular ramifications with respect to the CEQA  
13 process that could impact how the tires are removed. A  
14 lot of what appears is envisioned with respect to this  
15 process is more once the tires are removed, how do we  
16 mitigate the environmental issues and do restoration of  
17 the site, which would not be part of the tire removal  
18 process.

19           But Mr. Jones, I believe you're relating the tire  
20 removal aspects; is that correct?

21           BOARD MEMBER JONES: Part of the restoration is  
22 dependant upon how you remove the tires.

23           MR. LEVINE: Correct.

24           BOARD MEMBER JONES: Just be aware, you know, for  
25 all the Members, that we better have an awful lot of

1 oversight on this process, otherwise our checkbook is  
2 going to be exposed big time.

3 MR. LEVINE: Just a final point of clarification  
4 on that. At this point we are retaining the contractor.  
5 The issue of whether there would be in the extent of any  
6 cost recovery from the landowners for the tire removal was  
7 also very much the subject of the July Resolution. And  
8 that will be subject to further negotiations between the  
9 Board and the property owners.

10 There was an understanding at the July Board  
11 meeting there was certain factors which would indicate  
12 that a certain percentage of the costs of the tire removal  
13 would be absorbed by the Board and certain percentage  
14 could be recouped from the landowners and that's something  
15 that's still pending, and we will be giving you full  
16 information on that.

17 CHAIRPERSON MOULTON-PATTERSON: So there will be  
18 close oversight?

19 MR. LEVINE: Yes. There will be close oversight.

20 CHAIRPERSON MOULTON-PATTERSON: Mr. Medina, did  
21 you wish to speak on this?

22 BOARD MEMBER MEDINA: Yes, I do. In the staff  
23 report it states there is a risk that any interested party  
24 or concerned citizen would challenge the appropriateness  
25 of the Resources Conservation District acting as the lead

1 agency. Could you tell us what would form the basis for  
2 such a challenge?

3 MR. LEVINE: I'll let Michael Bledsoe assist if I  
4 don't state this as accurately as possible. He has more  
5 CEQA background than I do. But essentially as I'm sure  
6 you're all aware, the various aspects of CEQA can be  
7 subject to challenge, can be subject to public input in  
8 any variety of areas.

9 In the interest of full disclosure, given this  
10 item, we wanted to point out and make clear that just like  
11 in any other area of the CEQA process that could be  
12 subject to challenges or objections or criticisms, the  
13 question of how the lead was selected could be that as  
14 well. That is one of the reasons why the Waste Board  
15 staff reserved concurrence, position of no objection, to  
16 RCD acting as lead until we got that concurrence from the  
17 other two responsible agencies involved, the Regional  
18 Water Quality Control Board and the Department of Fish and  
19 Game further requested that a CEQA attorney prepare an  
20 opinion letter explaining the merits. Based on all that  
21 information, we at this point have no objection, just like  
22 the Water Board and Fish and Game to RCD. But yes, just  
23 like any other aspect, there could be a question of who is  
24 the most appropriate lead, and that could be adjudicated.

25 DEPUTY DIRECTOR LEE: Mr. Medina, if I could add



1 to that response. We think we've taken care of and are  
2 involving the people that are most likely to complain or  
3 have a problem with the project, at least with the RCD as  
4 lead agency for some of the sites.

5 But the other kind of contingency plan we have in  
6 place is, as we've proposed, we're going to be -- the  
7 Board is going to be the lead agency for the Gerbosi site.  
8 And we'll be establishing kind of a trail blazing role, if  
9 you will. And we'll be in a position, should things go  
10 awry, you know, with the lead agency situation with  
11 regards to the other Group 1 sites, we'll be in a  
12 position, you know, to involve ourselves should there be a  
13 complication that develops on that end.

14 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian.

15 BOARD MEMBER PAPARIAN: I think that answered  
16 part of my question. But so as I understand it, as we  
17 would proceed, we would be the lead agency for the Beebee  
18 Ranch site. And at one point is the decision made whether  
19 the RCD is the lead agency? Because I think what Mr. Lee  
20 suggested is under some circumstances we can step in and  
21 assume that roll.

22 MR. LEVINE: I'll let Michael step up to further  
23 clarify this, but my understanding is that basically the  
24 responsible agencies get together and say who's going to  
25 be -- I don't believe it's a rather formal process. I

1 believe it's a rather informal process. And it's been  
2 done at a staff level in many of these cases. And here  
3 staff from the Regional Water Quality Control Board and  
4 Fish and Game heard of the interest of the RCD in  
5 performing the lead. They did not have an interest in  
6 assuming that role. They said fine.

7           We did a little more homework as indicated, and  
8 we're indicating now that, you know, we don't have an  
9 objection to that process happening. If someone steps in  
10 to the process and says "We have an issue with this, we  
11 want this adjudicated in some fashion," that's when this  
12 could then be revisited.

13           STAFF COUNSEL BLEDSOE: Michael Bledsoe from the  
14 Legal Office.

15           Mr. Paparian, effectively the decision for RCD to  
16 be the lead agency on the seven sites has been made by  
17 RCD. What staff is advising you today is that we have no  
18 objection to RCD fulfilling that role. So, in effect, the  
19 decision is made.

20           We could not step in later as the lead agency,  
21 unless we wanted to bring this -- unless we felt that for  
22 some reason RCD is not an appropriate lead agency, and we  
23 took it to an appeal at the Office of Planning and  
24 Research. So if the Board has a significant problem with  
25 RCD being the lead agency, this would be an appropriate

1 time to raise that.

2 BOARD MEMBER PAPARIAN: I'm not suggesting a  
3 problem. I just want to be prepared in case we needed to  
4 do that, but I think I understand the process a little  
5 better. Thank you.

6 CHAIRPERSON MOULTON-PATTERSON: Thank you,  
7 Mr. Paparian, Mr. Bledsoe. I don't see any other  
8 questions. I want to thank you for your update, and I  
9 want to thank everyone who's here for all their work.

10 My intention is to start Number 5, the Tire  
11 Manifest Program and go until 12:30. Hopefully it will be  
12 done by then. But if it's not, I'm going to call a lunch  
13 recess at 12:30. So for those of you that are looking for  
14 other items, we're just going to take Number 5 before  
15 lunch. And then there will be closed session after lunch,  
16 so I can't tell you exactly when we'll be back.

17 Number 5, Mr. Lee.

18 DEPUTY DIRECTOR LEE: Thank you, Madam Chair.

19 Board Item 5, Status Report on Implementation of  
20 the California Uniform Waste and Used Tire Manifest  
21 Program and Request for Direction on Possible Program  
22 Modifications Regarding the Collection of Data Using  
23 Electronic Data Transmission and Program Issues Affecting  
24 Tire Retreaders.

25 The first part of this item will deal with

1 staff's proposal to expand the existing pilot program  
2 utilizing electronic data transmission to address the  
3 statutory requirements for waste tire manifesting. As you  
4 will hear, expansion of this pilot program together with  
5 some ancillary projects shows great promise in reducing  
6 costs and significantly relieving some of the  
7 administrative burden related to the program currently  
8 impacting the regulated community and Board staff.

9           The second part of the item will deal with  
10 staff's proposal to address the retread industry -- to  
11 address tire retread industry concerns with the  
12 manifesting program. We are proposing the development of  
13 emergency regulations, which will have the objective of  
14 reducing the financial burden on retreaders, while still  
15 capturing information on waste tires and casings, and not  
16 compromising the overall integrity of the waste tire  
17 manifest program.

18           Finally, I would like to emphasize that  
19 sufficient funding for all the programs and initiatives  
20 discussed in this item have already been approved as a  
21 part of the Five-Year Plan Hauler Manifest Program  
22 development, which was approved by the Board last July.

23           Alternatively speaking, no reallocation of funds  
24 from other Five-Year Plan elements will be required to  
25 implement these initiatives.

1           With that overview, I'd like to turn Doug Ralston  
2 and Don Dier who will make the remainder of the staff  
3 presentation.

4           CHAIRPERSON MOULTON-PATTERSON: Thank you.  
5 Mr. Dier.

6           (Thereupon an overhead presentation was  
7 presented as follows.)

8           WASTE TIRE MANAGEMENT MANAGER DIER: Thank you.  
9 Good morning, Chair, members.

10           Just a brief background before we get into the  
11 details. Just a quick history. In 1993, Senate Bill 744  
12 established the original Hauler Registration Program and  
13 the initial manifesting requirements. The Manifesting  
14 Program, the original one, was in place from 1995 until  
15 mid-last year when the new program went into effect.

16           In 1998, Assembly Bill 117 required a report to  
17 the Legislature on the used and waste tire programs. That  
18 report was delivered in 1999, recommending the Closing the  
19 Loop strategy with regard to the flow of tires in  
20 California, and that report provided the basis for the  
21 language and concepts in Senate Bill 876.

22           In year 2000, Senate Bill 876 passed, which  
23 established the California Uniform Waste and Used Tire  
24 Manifest System, which requires that each party to a waste  
25 tire transaction submit a copy of the manifest form to the

1 Board. That's a brief history of how we got here.

2 Doug will take care of the EDT portion, and I'll  
3 address the retreader portion.

4 CHAIRPERSON MOULTON-PATTERSON: Thank you.

5 Mr. Ralston.

6 INFORMATION BRANCH MANAGER RALSTON: Thank you.

7 My name is Doug Ralston. I'm a Manager within the  
8 Information Management Branch here at the Board. What I'd  
9 like to do for my portion of the presentation would be to  
10 speak to the two methods that SB 876 provided for in the  
11 collection of waste tire manifest system data.

12 --o0o--

13 INFORMATION BRANCH MANAGER RALSTON: SB 876  
14 provided specifically for a paper based form submittal  
15 process, as well as an electronic data transfer option.  
16 Currently, with the implementation of SB 876, both of  
17 these methods are currently in effect.

18 --o0o--

19 INFORMATION BRANCH MANAGER RALSTON: In terms of  
20 submittal -- and what I'd like to do here is draw  
21 distinctions between the two forms and then at the end of  
22 this comparison provide an approach that we think is  
23 workable for expansion of the EDT as an option to large  
24 volume haulers. Under submittal, the two methods, the  
25 paper method requires each party to a transaction submit a

1 form via the mail to CIWMB for processing. Under EDT,  
2 haulers are provided the opportunity to submit their data  
3 monthly on pick ups, hauls, and deliveries. Submittal is  
4 done electronically via the Board's Internet site on our  
5 website.

6 --o0o--

7 INFORMATION BRANCH MANAGER RALSTON: The major  
8 processes in the processing of the paper method include  
9 collecting the forms from the Post Office; opening the  
10 forms and preparing them for scanning; scanning the forms  
11 into the computer; verifying specific data through OCR,  
12 optical character recognition; and then correcting those  
13 questionable entries, most of them handwritten, that  
14 sometimes cause a problem for the computer to recognize  
15 characters with. Once those forms have been verified and  
16 the data validated, that information is moved into the  
17 waste tire manifest system database for reconciliation  
18 purposes.

19 --o0o--

20 INFORMATION BRANCH MANAGER RALSTON: A little  
21 more on the processing. Forms from each of the three  
22 participants to a waste tire transaction come in at  
23 different times. As each is required to submit a form to  
24 the Board, they have up to 90 days in which to submit that  
25 form. Therefore, information comes from a particular tire

1 transaction at different times from the different  
2 individuals. At the present time, there's a 60,000 form  
3 backlog to be processed. And as we have mentioned before,  
4 the paper process is very staff and time intensive in  
5 terms of clearing that backlog.

6           The EDT on the other hand, we are able to put  
7 into the system in large batches, usually thousands of  
8 records. EDT data is submitted as complete loads. That  
9 is, we have the information from both the pickup and  
10 delivery, as well as haul, at the time the EDT is  
11 submitted. So we don't have to wait for forms to come in.  
12 It all comes in at the same time. There's much less staff  
13 time spent in the processing of EDT data, and no backlogs  
14 currently exist for this method of collection.

15                               --o0o--

16           INFORMATION BRANCH MANAGER RALSTON: In terms of  
17 data quality, overall the paper has a lower data quality  
18 than the EDT. The reason being is most of these forms are  
19 filled out in the field are handwritten. Sometimes  
20 critical data is missing specific to pickup or deliver,  
21 decal number of the trucks. The waste tire trip data is  
22 more difficult to reconcile because of the lower data  
23 quality in terms of accurate data being put on the forms.  
24 And the missing information often requires staff follow up  
25 via telephone, perhaps mass mailings on advisory letters,



1 and specific field visits to those sites where we're  
2 having a lot of errors.

3 EDT, on the other hand, is processed  
4 electronically. We verify the information at the time  
5 it's submitted to make sure all fields are completed. And  
6 if it's not complete, we ask the EDT participant to  
7 correct it and resubmit it. As a result, we have a very  
8 high trip reconciliation rate that would be do the number  
9 of tires picked up equal the number of tires dropped off  
10 in the EDT program, which is much higher than the paper.

11 --o0o--

12 INFORMATION BRANCH MANAGER RALSTON: In terms of  
13 the waste tire hauler community, there are approximately  
14 850 registered waste tire haulers. Fifty of those would  
15 be considered large volume haulers. The next tier down  
16 would be those that would number about 100 to 300 that may  
17 have a small fleet of trucks that provide pickup services.  
18 And then we have a number of small business haulers, those  
19 with one or two trucks. Currently within the EDT pilot  
20 projects, we have two large volume haulers. And we've  
21 been in production with the EDT pilot since July 1st of  
22 last year.

23 --o0o--

24 INFORMATION BRANCH MANAGER RALSTON: In looking  
25 at the number of forms that have come into us over the

1 last six to seven months, here is some information that we  
2 provide on statistics we can provide to you on numbers of  
3 forms we receive by how many haulers.

4           If we look at the total number of forms received  
5 to date, 25 haulers account for about one-half of all the  
6 forms received. If we take a smaller grouping of that, we  
7 see that 14 haulers, approximately, account for about  
8 one-third of all forms received to date. While it would  
9 certainly be desirable to have all 25 of these haulers in  
10 the EDT pilot program, a more realistic estimate is that  
11 14 to 15 haulers could be brought into the EDT through a  
12 moderate expansion of this pilot. Staff estimate that if  
13 we have 14 to 15 of the large volume haulers in the EDT  
14 pilot project, we would be able to decrease current form  
15 processing by about one-third or perhaps a bit more.

16                               --o0o--

17           INFORMATION BRANCH MANAGER RALSTON: We have  
18 been -- when I say "we," IMB and the waste tire staff have  
19 been promoting the EDT option since last July -- actually,  
20 last June's training sessions which we held statewide. In  
21 talking to prospective businesses about EDT options, many  
22 have said they can see the potential for EDT in their  
23 business, but lack the technical resources to make it  
24 happen. EDT pilot projects haulers, the two that we  
25 currently have in the program right now, find the Waste

1 Tire Manifest System easier to administer and to manage in  
2 the EDT piece than in the paper piece.

3           Industry has told us they would welcome some sort  
4 of assistance to achieve more efficiencies within the  
5 waste tire manifest reporting process. And finally, that  
6 we have -- that is, the Board has produced an electronic  
7 data transfer users manual that we have been passing out  
8 to any and all who might want to see what it would take to  
9 become part of the EDT program. This has been available  
10 since last fall.

11                               --o0o--

12           INFORMATION BRANCH MANAGER RALSTON: Benefits of  
13 expanded EDT pilot project. Certainly, it leverages  
14 existing industry business practices. They can use their  
15 own forms as long as they're providing information that we  
16 require on our standard paper form, the waste tire  
17 manifest. They can also report on behalf of their  
18 clients, many of whom do that already.

19           From an EDT hauler perspective, this is not a big  
20 change in terms of business process. It actually mirrors  
21 some of the processes they're actually doing now in terms  
22 of invoicing their clients, determining rates for tire  
23 charges, and invoicing and routing.

24           CHAIRPERSON MOULTON-PATTERSON: Excuse me,  
25 Mr. Ralston. I have a question. Does this program just

1 mean they need a computer or --

2 INFORMATION BRANCH MANAGER RALSTON: No, it  
3 doesn't. It could be that, too. But what we're looking  
4 at is the actual business process of taking whatever data  
5 they're collecting in terms of name of the business,  
6 number of tires, where they're picked up, and where  
7 they're delivered, and putting that into an EDT format and  
8 submitting that to the Board rather than a form.

9 CHAIRPERSON MOULTON-PATTERSON: I guess I'm just  
10 trying to get a handle on, you know, how much is this  
11 going to -- obviously, this would be the way to go. But  
12 I'm trying to get a handle on how much it would cost some  
13 of the small business owners.

14 INFORMATION BRANCH MANAGER RALSTON: That would  
15 really be based on the approach I'm going to be talking  
16 about in about two minutes here, two more slides.

17 CHAIRPERSON MOULTON-PATTERSON: Okay.

18 INFORMATION BRANCH MANAGER RALSTON: Certainly,  
19 it's been noted there's faster data collection, faster and  
20 easier submittal, faster processing times, and higher data  
21 qualities shown with the EDT method, and also that we've  
22 been in production since July 1.

23 --o0o--

24 INFORMATION BRANCH MANAGER RALSTON: The approach  
25 that we're proposing for the expansion of the EDT program

1 speaks to, I think, all three levels that we saw earlier  
2 on in terms of the large volume haulers, the middle tier,  
3 and the small business owner.

4           What we're proposing is that we would do a  
5 readiness assessment. What this readiness assessment is,  
6 is talking with businesses that would be interested in EDT  
7 to find out if they're using software now. If they are --  
8 and many of them are using accounting packages like Quick  
9 Books or Peachtree that have utilities where you can  
10 actually extract data from your accounting system and put  
11 it into a database format. It may be as simple in terms  
12 of getting them involved in EDT as providing them some  
13 sort of programming assistance or perhaps some direction  
14 on how to go about using some of the software they already  
15 have.

16           Based on that readiness assessment and how much  
17 automation they currently have on site, we would be  
18 seeking to do some focused technical assistance. If there  
19 is specific programming that can be done or if there's a  
20 programming or utilities that we can develop at the Board  
21 that would facilitate EDT within a particular business, we  
22 would certainly like to provide that kind of assistance.

23                               --o0o--

24           INFORMATION BRANCH MANAGER RALSTON: And then  
25 lastly, for those small businesses with -- or large

1 businesses, for that matter, with minimal automated  
2 capabilities, we would be seeking to develop a small stand  
3 alone system to provide basic customer account information  
4 and the ability to key enter the data and generate EDT  
5 manifest data for submittal to the Board. We can do this  
6 with something that would be a standard kind of software,  
7 MS Access being a very common market product. And it  
8 would be something that would be able to be run on a  
9 computer without being linked to a network. That's why  
10 it's considered stand alone.

11 Those three aspects: The readiness assessment,  
12 how ready is a specific business to get into EDT; the  
13 actual focused technical assistance based on that initial  
14 assessment; and finally the development of a stand alone  
15 are three of the aspects we're looking at for the  
16 expansion of the EDT project.

17 And the dollar amounts have been shown there.  
18 25,000 for the initial assessment whereby the Board staff  
19 programmer, analyst, and perhaps a contract programmer would  
20 be talking and sitting down with various businesses who  
21 might be interested in this particular kind of approach.  
22 Focused technical assistance would also be a combination  
23 of Waste Board programming staff, and then contract  
24 programmers working for Board contracting staff under the  
25 oversight of IMB doing some of the technical assistance

1 with some of these haulers, as may be necessary. And then  
2 lastly, the development of a stand alone system being  
3 something we would develop within IWB perhaps using  
4 contracts staff, perhaps not.

5 That concludes my portion of the presentation.

6 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.  
7 Ralston.

8 INFORMATION BRANCH MANAGER RALSTON: Did you want  
9 to take questions now, Jim?

10 DEPUTY DIRECTOR LEE: With the Board's  
11 permission, if we can complete the presentation on the  
12 retreaders and then probably have questions, if that meets  
13 with your approval.

14 CHAIRPERSON MOULTON-PATTERSON: Okay. I don't  
15 see any questions right now.

16 WASTE TIRE MANAGEMENT MANAGER DIER: The next  
17 issue has to do with a situation with the retread industry  
18 in California.

19 --o0o--

20 WASTE TIRE MANAGEMENT MANAGER DIER: By the  
21 nature of SB 876 and the definitions that were put in the  
22 Public Resources Code with regard to using waste tires, it  
23 includes retreadable, recapable, reparable tires. So  
24 those tires, although they've been subject to the previous  
25 manifest systems since 1995, the new system was applied to

1 them also. So since July 1 of last year when the new  
2 manifest system was implemented, the retreaders have been  
3 in a position of having to fill out the manifests for each  
4 time they pick up a casing -- a tire casing and bring it  
5 back to their facility to be retreaded.

6           The retreader industry feels that this has  
7 created a burden on them because they feel they're a bit  
8 unique in that unlike other tire transactions with used  
9 and waste tires, they're not taking ownership of those  
10 casings. The ownership stays with the trucking firm or  
11 the fleet from which they pick up the casing. They're  
12 merely taking it to their place of business and  
13 determining whether or not that casing can be retreaded.  
14 If it can be, then it's retreaded and returned to the  
15 owner. At that point it's essentially like a new tire.  
16 If it cannot be retreaded, then it becomes a waste tire  
17 and it would be subject to all of the existing  
18 requirements.

19                               --o0o--

20           WASTE TIRE MANAGEMENT MANAGER DIER: As I  
21 mentioned, the retreading industry feels they're unduly  
22 burdened by these manifesting requirements, and they're  
23 asking the Board if it's possible to modify those  
24 requirements, but still allow us to capture the  
25 information with regard to the quantities of casings being



1 retreaded and recycled or disposed of.

2 --o0o--

3 WASTE TIRE MANAGEMENT MANAGER DIER: So the  
4 objective of their request would be to ease the burden but  
5 still capture that information.

6 --o0o--

7 WASTE TIRE MANAGEMENT MANAGER DIER: Staff has  
8 had concerns with this -- we've come to a point of  
9 agreeing with and we are making a recommendation.  
10 However, staff have, from the get-go, had concerns with  
11 providing some allowance for some sector of the industry.  
12 We empathize with and agree that perhaps there could be  
13 some different requirements developed for the retread  
14 industry. And in fact, we're proposing and recommending  
15 that that be done through emergency regulations, but staff  
16 is intent on making those applications very narrow. We  
17 feel that there could be the potential for other sectors  
18 of the industry to seek similar type of consideration.  
19 But we believe that the retreader situation is unique  
20 because of the fact that they do not take ownership of  
21 those tire casings until such time as they become a waste  
22 tire.

23 We looked at and consulted with the Legal Office  
24 on what some of the possible approaches might be, and  
25 we've outlined several approaches for the Board in the

1 agenda item. The one we felt was the most appropriate was  
2 the emergency regulations. We considered perhaps a pilot  
3 program of some type of approach. But the retreader  
4 industry is asking for consideration for all of the  
5 retreaders, of which there's approximately 50, in the  
6 state that would be effected. They weren't asking for  
7 consideration for one portion which, like the EDT, we're  
8 doing a pilot program for a portion of those haulers.  
9 They're seeking some relief for the entire retreader  
10 industry.

11 So on that basis, the pilot program was really  
12 not appropriate. But Legal staff and Program staff felt  
13 that emergency regulations would be appropriate, and that  
14 is what staff is recommending that we do.

15 We do believe that there will be some costs  
16 incurred with regard to some program modifications to the  
17 existing manifest system and also perhaps to develop some  
18 specific forms, trip logs for the tire retreaders to use.  
19 And although we identified it in the agenda item, I  
20 realized we didn't include it on the Power Point, but we  
21 are estimating or allocating about \$150,000 to accommodate  
22 any of those anticipated costs.

23 --o0o--

24 So in summary, staff is pretty much at a point  
25 where we're planning on proceeding with the expansion of

1 the electronic data transfer program, if it meets with the  
2 Board's approval. And more specifically, we're -- as the  
3 item was noticed, we're seeking some direction from the  
4 Board with regard to addressing the retreader issue.

5 Staff is recommending that we proceed with  
6 developing emergency regulations. I would hope we would  
7 be able to be back before you within a few months with  
8 those regulations, if that meets the Board's approval.

9 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.  
10 Dier. I'm not sure if we have other questions, but I just  
11 want to say, you know, I definitely think this is an area  
12 that needs to be addressed. I've had some of the people  
13 come to my office, and what you're saying makes sense to  
14 me.

15 But before we get into that, I know there's a lot  
16 of people that would like to speak. I'm going to ask they  
17 be very brief. It's right before lunch. We have a long  
18 day today. And so with that, Terry Leveille, followed by  
19 Harvey Brodsky, Mark Korte, and Denise Kennedy. So if you  
20 could be very brief, I'd appreciate it.

21 MR. LEVEILLE: Thank you, Madam Chair and Board  
22 members. Terry Leveille with the TL & Associates  
23 representing the Tire Retread Information Bureau.

24 Just wanted to reiterate we've been working with  
25 staff on the retreader issue. I think we're making

1 progress. It is certainly one that I feel strongly about,  
2 personally. I think they're in the right. And this is an  
3 issue that I think we can hopefully -- as a starting point  
4 for developing some emergency regulation and the like.  
5 Thank you very much.

6 CHAIRPERSON MOULTON-PATTERSON: Thank you.

7 Harvey Brodsky, followed by Mark Korte.

8 MR. BRODSKY: And I will be brief. Madam Chair  
9 and Board members and staff, thank you for this  
10 opportunity. I'm Harvey Brodsky with the Tire Retread  
11 Information Bureau. I believe our cause is right. I know  
12 I've had the opportunity to speak to many of you in the  
13 room, and staff has suffered with me through a number of  
14 meetings, for which I appreciate.

15 And we have -- if it comes to the point of  
16 drafting the emergency regulations, we have a lot of data  
17 that we have compiled from our members that we would love  
18 to be able to share with staff. And I think it might be  
19 helpful in providing more information for them. And we  
20 are available if staff needs more information as the  
21 regulations are drafted, and we really look forward to  
22 seeing this happen, because we think it's the right thing  
23 to do. Thank you.

24 CHAIRPERSON MOULTON-PATTERSON: Thank you.

25 Mark Korte, followed by Denise Kennedy.

1           MR. KORTE: I'm Mark Korte with Tri C Tire  
2 Recycling. Thank you for the opportunity to be before the  
3 Board. I'm probably one of the tire recyclers that fall  
4 into the 14 of 15 of the larger haulers that you're  
5 talking about.

6           I'd like to talk to both the same issue the  
7 retreaders are talking about. They're moving one tire and  
8 potentially have three, four, five manifests for it. We  
9 are a waste tire hauler as well as a processor and an  
10 end-use facility, and we have that same duplication of  
11 manifests that they do.

12          And I think the first step, potentially, in  
13 cutting down the amount of paperwork that your staff has  
14 to deal with is just have a check box on the manifest that  
15 says we're the same person that's hauling it, that's  
16 disposing of it. I think it's a real simple way of  
17 cutting down the paperwork and the amount of extra effort  
18 we have to spend with our staff to accommodate your  
19 reporting program. May be a quick and easy fix to get  
20 over some of this.

21          Now, we are interested in an EDT program. But  
22 one of the things we take a look at is, okay, are we going  
23 to have to put an additional effort for our staff into it?  
24 In other words, are we going to have to additional data  
25 entry? If you can interface with a software that we are

1 currently using, that's fine. We'll take a look at it.

2 But we also want to take a look at if your  
3 manifest system is going to stay intact as it currently  
4 is. And I'm not -- as an outside observer, I'm not  
5 familiar with the amount of the avalanche of paperwork  
6 that you're dealing with. I don't really want to get  
7 involved with anything that's going to have any  
8 out-of-pocket money or resource time from our company  
9 until we're assured that we're heading down a path that's  
10 going to be there for a while.

11 CHAIRPERSON MOULTON-PATTERSON: Thank you.

12 Denise Kennedy.

13 MS. KENNEDY: Madam Chair and the Board, our  
14 company currently processes about 3 1/2 million tires. We  
15 are a hauler. We're a generator. We're an end use for  
16 our company's tires we collect and for many other haulers.  
17 We have multi-locations, not just one. And then we have  
18 one location that's a site in transition. So tires are  
19 collected, put in one pool, and then go to one of our end  
20 uses.

21 It has been a tremendous economic burden. To  
22 give you an example, we have many drivers and we average  
23 15 minutes for paperwork. We think we do about 4,000  
24 manifest logs a month. We have hired two additional staff  
25 people at \$60,000. We've already got hit with all the

1 workers' comp issues. So it has been a major burden to  
2 our company.

3 We have looked at and wish we would have been  
4 included in the pilot project. We think that's an  
5 economic disadvantage to our company who is just as large.  
6 And because of that, we've had actual customers tell us  
7 that they're going to stay with the two companies that  
8 have it. I don't think that's fair to all companies. We  
9 do encourage you doing the EDT program for everyone.

10 I've spent many, many hours with three different  
11 consultants, recently more with one than any other one,  
12 trying to see how we can participate. It's all going to  
13 cost us a lot of money, more money than we've already got.  
14 Then you think, how do you get rid of the administrative  
15 people you have? You can't, because you now have them.  
16 It's really important that this program does go to another  
17 level.

18 We also have looked at spending money and it's  
19 almost, practically, as much as what you guys want to look  
20 at. We think there should be some kind of a template,  
21 like they have three different phases. Do something like  
22 that. One for somebody that doesn't have the computer, or  
23 you guys have to get them a computer. One that matches  
24 our own program. So we also need to have that  
25 established.

1           Currently, right now what's happening is many of  
2 the haulers where the state and the counties are out going  
3 in and seeing if paperwork is being done, I wish that they  
4 would go to the hauler or follow the hauler from the  
5 customers. There's many, many, many illegal ones out  
6 there right now. Those of us that were legal in the  
7 beginning are still legal. The illegal ones are still  
8 illegal. And it's getting worse by the day, and we do  
9 report them. We haven't seen any action on them yet.  
10 Some of the staff people know who those people are and  
11 it's pretty blatant. They use other people's manifests  
12 and invoices and continue to use abuse the system. So  
13 that's another issue that needs to get resolved.

14           It will reduce a lot of paperwork, as I have  
15 identified. The violations, we're starting to get a  
16 couple of them on violations. Post Office, we have copies  
17 from the Post Office that show us that they're being  
18 destroyed in their meters. They don't like them. I don't  
19 know if anybody else has seen that at all. But we've seen  
20 quite a few of them at all of our operations. So  
21 somewhere they're getting jammed. I guess that's the poor  
22 quality of paper you guys talked about. That's another  
23 issue.

24           When we get a violation, you didn't get  
25 something -- and I can't tell you how hard we work to make



1 sure you guys get everything, and then we don't even know  
2 if it comes from the Post Office. And it's pretty hard to  
3 go after the company and say you violated something.  
4 That's all the more reason we need to get -- if we can --  
5 and we are one of the large ones in the 14. We know that.  
6 That needs to be a part of that program as well.

7           In talking about the retreaders, we're not a  
8 retreader. But I do want to say there's a lot of the used  
9 tire sellers out there that go and take tires from a  
10 customer, go out, put them in an illegal warehouse or site  
11 and sell them to somebody else. I'm just curious how  
12 you're going to separate used tire guys that most of  
13 them -- a lot of them are still illegal. Are they going  
14 to go in and try to get a retreader's license? I don't  
15 know enough about that one side of it. Just wanted to  
16 bring that up. So you need to really qualify the  
17 retreaders and monitor that.

18           That's my points right now. Let's do something.  
19 We know we have to do it. And we can't afford all this  
20 money we're putting out right now. It's very much a  
21 burden.

22           CHAIRPERSON MOULTON-PATTERSON: Thank you for  
23 being here, Ms. Kennedy. And we hear you, and we want to  
24 work with you on this, I can assure you.

25           Mr. Dier, did you want to respond to any of this

1 before I go to the Board?

2 WASTE TIRE MANAGEMENT MANAGER DIER: I would like  
3 to respond to Ms. Kennedy's last point, that is staff  
4 shares the concern that anything that we develop for the  
5 retreaders, we want to make sure it's narrow and only  
6 applicable to them. We understand that if we can't make  
7 an emergency regulation package narrow enough and tight  
8 enough, we will not be bringing it before you.

9 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.  
10 I appreciate that reassurance.

11 Just real quickly for myself -- and I don't see  
12 any other lights anyway. But my understanding that this  
13 money has already been approved; is that right?

14 DEPUTY DIRECTOR LEE: It's already in the  
15 Five-Year Plan. The Board approved \$1.11 million for  
16 03-04, and all the projects are within that amount.

17 CHAIRPERSON MOULTON-PATTERSON: And you know, I'm  
18 supportive. I just want to know on this 100,000, the  
19 stand alone system, how many haulers would this effect --  
20 I mean, would benefit? Can you tell me just about,  
21 approximately?

22 INFORMATION BRANCH MANAGER RALSTON: As many as  
23 would want to use it. Certainly, this is something we  
24 would be providing free to the regulated community. And  
25 we would provide minimum system requirement. Here's the

1 size and type of computer you would need to run it.

2 CHAIRPERSON MOULTON-PATTERSON: You'd be giving  
3 them assistance?

4 INFORMATION BRANCH MANAGER RALSTON: We would be  
5 providing them a stand alone system that they load on  
6 their computer and bring up and begin to enter data into.  
7 And from which they can generate information in a format  
8 that we need it for the electronic data transfer and  
9 acceptance.

10 CHAIRPERSON MOULTON-PATTERSON: Thank you.

11 Ms. Peace had a question or a comment and  
12 Mr. Paparian.

13 BOARD MEMBER PEACE: I understand that staff is  
14 very busy with errors and follow ups. So there's a 60,000  
15 form backlog. So if we put \$25,000 into helping with an  
16 EDT, we're going to take 14 or 15, you said, of those  
17 haulers and put them on the electronic system?

18 INFORMATION BRANCH MANAGER RALSTON: What we're  
19 seeking -- we know that approximately 25 of the larger  
20 haulers account for 50 percent of the form we receive.  
21 What our goal is is to contact each of those 25 and see  
22 how ready any of them might be for electronic data  
23 transfer --

24 BOARD MEMBER PEACE: So we have 25 haulers that  
25 account for all the forms received?

1 INFORMATION BRANCH MANAGER RALSTON: No. We've  
2 got --

3 BOARD MEMBER PEACE: 25 haulers account for half  
4 the forms received. Even if we do with the \$125,000 help  
5 25 of these haulers get on the system, we'll still then  
6 only have a 30,000 form backlog.

7 INFORMATION BRANCH MANAGER RALSTON: I'm sorry.  
8 I had somebody else talking to me at the same time.

9 BOARD MEMBER PEACE: If we have a 60,000 form  
10 backlog now -- 25 haulers account for half of all the  
11 forms received.

12 INFORMATION BRANCH MANAGER RALSTON: Correct.

13 BOARD MEMBER PEACE: Even if we help those 25 get  
14 on the electronic system, there's still going to be a  
15 30,000 form backlog?

16 DEPUTY DIRECTOR LEE: Ms. Peace, if I can respond  
17 a little bit about that. I think what we're trying to get  
18 across here is that if we can migrate or move more of the  
19 haulers on to the EDT program, that we can then get to a  
20 position where the remainder of the paper forms coming in  
21 are fewer so we can handle them and provide us more time,  
22 then, to address the backlog. So the migration to the EDT  
23 system is basically to try to handle our future problems  
24 and to keep our problem from growing any bigger and allow  
25 us to have staff resources so we can address that.

1           BOARD MEMBER PEACE: In the migration, getting  
2 everybody on this EDT program right now, we're going to  
3 try to help 20 to 25 of them, and we have 800?

4           DEPUTY DIRECTOR LEE: Yeah. But 20 to 25 account  
5 more about 50 percent of the paper we're receiving.

6           BOARD MEMBER PEACE: We'll still only have 30,000  
7 forms that will be backlogged?

8           DEPUTY DIRECTOR LEE: The migration will just  
9 affect future submittals that these companies might be  
10 making to us. So it will keep the backlog from growing  
11 larger and provide staff --

12          BOARD MEMBER PEACE: How many forms would we  
13 would be receiving? If we get half of them on the EDT  
14 system, how many forms in, say, a month will we have  
15 coming in.

16          INFORMATION BRANCH MANAGER RALSTON: I would  
17 estimate about 2,000 to 2500 a month -- a week. Excuse  
18 me. A week. So you're talking 8- to 10,000.

19          BOARD MEMBER PEACE: A month. So how long do you  
20 think it's going to be -- so right now we're not  
21 matching up -- we're not able to match up all these  
22 manifest forms; is that correct.

23          INFORMATION BRANCH MANAGER RALSTON: We are  
24 processing them through the scanning, and then we are  
25 putting that data once it's verified into the database.

1 At this point we do the reconciliation in terms of are the  
2 number of tires picked up equal to the number of tires  
3 delivered?

4 BOARD MEMBER PEACE: With all the errors and all  
5 the follow ups and all the backlog, the system -- you  
6 really haven't been able to match anything up yet. And we  
7 don't know what's --

8 INFORMATION BRANCH MANAGER RALSTON: This program  
9 has been in effect for approximately seven months. We do  
10 and have been starting to do the reconciliation on paper  
11 manifests. Realizing that the paper manifest don't have  
12 to be sent in except every quarter, it does make --

13 BOARD MEMBER PEACE: Is there a way to change  
14 that? Shouldn't that be like a lot shorter time frame?  
15 Three months?

16 WASTE TIRE MANAGEMENT MANAGER DIER: It's in the  
17 statute they have up to 90 days to submit the form. We've  
18 requested they submit it within 14 days, but they always  
19 have the fallback to the statute if they don't.

20 INFORMATION BRANCH MANAGER RALSTON: So in terms  
21 of reconciliation, we're obligated to wait for a full 90  
22 days before we begin it, allowing all the paperwork to get  
23 in from the three different parties.

24 BOARD MEMBER PEACE: So how long will it be  
25 before we even know the system is doing what it's intended

1 to do?

2 INFORMATION BRANCH MANAGER RALSTON: I think it's  
3 showing what it's intending to do already. Realize that  
4 as part of this system there is the initial giving out of  
5 forms and receiving of forms, the processing of forms.  
6 But then behind that once the data is into the database,  
7 you have review of the information for reconciliation  
8 purposes. Are the generators, haulers, and end users  
9 complying with the law? So you begin to start looking for  
10 violators and potential enforcement actions.

11 Those things are just now coming into being,  
12 given the fact we are six to seven months into the  
13 program. We would expect those aspects of the program to  
14 be more fully developed and to be more attended to by  
15 staff as we get the data in and as we're able to reconcile  
16 it.

17 So there's a lot of work for staff to do yet on  
18 aspects of the program that haven't really been fully  
19 engaged because it is a new program.

20 DEPUTY DIRECTOR LEE: One other point I'd like to  
21 make on this, Ms. Peace. I guess it is a proverb or a  
22 parable about eating an elephant. How you go about doing  
23 that? It's kind of like one little bit at a time.

24 The EDT thing is one piece of it. We're also  
25 concurrently, you know, going forward with the finance

1 letter to try to get additional staff in the program. And  
2 we're looking at other student resources so we can  
3 continue to process the paper. You know, it is a package  
4 of efforts, you know, that we're looking at to come to  
5 grips with the program.

6           Like I said, this is something even the  
7 Legislature deemed and kind of directed us to comply with.  
8 We think we've come up with the best system that's  
9 possible, given the constraints that were imposed of us.  
10 We think of the paper versus the EDT system, the EDT is by  
11 far the best way to go. We're proposing as part of this  
12 item a migration, a way to accelerate the move of these  
13 haulers over to the EDT program. So, again, it's  
14 something that's -- rather than one single effort is going  
15 to solve all the problems, it's on a continuum here.

16           We're trying to slow the momentum and keep the  
17 backlog from growing, free up staff to be able work on  
18 that, and at the same time put us in a position in a few  
19 months to start seeing some improvement with regards to  
20 reduction in this paperwork and better data being received  
21 through the EDT program.

22           CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.  
23 Lee.

24           Mr. Paparian.

25           And we are going to be cutting this off soon and



1 finishing after lunch.

2 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.

3 Perhaps I can ask one question before the lunch break. I  
4 don't know if Ms. Kennedy is going to be here after lunch  
5 or not.

6 It seems like you have one large hauler who seems  
7 anxious to get into the EDT program and seemed to indicate  
8 some willingness to put some of her own resources into  
9 making that happen. How soon can she get into the  
10 program?

11 INFORMATION BRANCH MANAGER RALSTON: We have had  
12 discussions with Denise about EDT since last fall. I met  
13 with Denise in my office on the eighth floor to talk about  
14 EDT and some of the ways that could happen.

15 She has taken the manual that we provided and has  
16 been moving forward into working with EDT and providing  
17 EDT within her workplace. We'd like to talk to her more  
18 about anything else we can do to get her actively  
19 participating in EDT.

20 BOARD MEMBER PAPARIAN: If she were to come  
21 forward and say, "We've got a system that will give you  
22 the information you need in the format you need it," would  
23 we be willing to --

24 INFORMATION BRANCH MANAGER RALSTON: Yes.  
25 Absolutely. Absolutely. Yes.

1 BOARD MEMBER PAPARIAN: Okay. I'll save the rest  
2 for after lunch, Madam Chair.

3 CHAIRPERSON MOULTON-PATTERSON: Thank you. We  
4 have Mr. Jones and then we have Ms. Peace before lunch. I  
5 was hoping to wrap it up, but I don't know that we're  
6 going to.

7 BOARD MEMBER JONES: Madam Chair, if there's more  
8 questions, I'll just wait.

9 CHAIRPERSON MOULTON-PATTERSON: Ms. Peace.

10 BOARD MEMBER PEACE: Denise Kennedy mentioned  
11 they're very anxious to be on the EDT program, because  
12 they feel they're at a disadvantage for not being on it.  
13 Okay. That's one hauler. I mean, there's 800 haulers out  
14 there. What about the other 780 that won't be on the EDT  
15 program? Won't they be at an economic disadvantage?

16 INFORMATION BRANCH MANAGER RALSTON: They're  
17 welcome to become part of the EDT program. We produced  
18 the manual. We've given that manual out to as many that  
19 have called. We've called a few of the larger haulers of  
20 the 25 or 50 and sought to send them the EDT manual.

21 One of the stumbling blocks has been, "Well, you  
22 provide us the system and equipment and we'll run it."  
23 We're not to that point, I don't think the Board is, in  
24 terms of providing them the entire infrastructure in which  
25 to do this work.

1           Certainly we have worked with, and will continue  
2 to work with, anybody that wants to talk about becoming  
3 part of the EDT program. Realizing that the top 25  
4 haulers are in a very large and expensive business -- many  
5 of them have their own invoicing systems, et cetera. So  
6 in the invoicing systems, they're already capturing  
7 probably 80 percent of the data we need from EDT. Namely,  
8 the client, number of tires picked up, date, et cetera.  
9 So part of that approach on our EDT is to try to work with  
10 them to extract that information that they may already be  
11 collecting and put it into the EDT format.

12           CHAIRPERSON MOULTON-PATTERSON: Thank you. This  
13 is a big issue. I don't want to abbreviate it. So what  
14 my intent is, we're going call our lunch break at 12:30.  
15 The Board will be back at 1:30 for closed section, and we  
16 will be back in public session with the item at 2:30. And  
17 then it's my intent to take up 11. I've had a request to  
18 take up number 11 after this. So please be back in closed  
19 session at 1:30.

20           (Thereupon a lunch recess was taken.)

21           CHAIRPERSON MOULTON-PATTERSON: I'd like to call  
22 our meeting back to order. We still have a lot to do.  
23 We're going to be finishing up Item Number 5. And then  
24 I've had a couple of requests from groups that have planes  
25 that they're afraid they're going to miss. So we'll try

1 to accommodate you and take those out of order just as  
2 soon as we finish up with this one.

3 So Mr. Jones, did you have any ex partes?

4 BOARD MEMBER JONES: Evan Edgar and Denise  
5 Delmatier.

6 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

7 Ms. Peace, do you have any ex partes?

8 BOARD MEMBER PEACE: Well, I sure do. And I had  
9 three cards that I had at lunchtime to ex parte these  
10 people regarding the Tire Manifest System, and my advisor  
11 picked them up and I have no idea where he is so --

12 CHAIRPERSON MOULTON-PATTERSON: We'll come back  
13 to you.

14 BOARD MEMBER PEACE: When Rick gets here, maybe  
15 I'll be able to ex parte.

16 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

17 I have none. Okay.

18 There he is.

19 Mr. Medina, do you have any ex partes?

20 BOARD MEMBER MEDINA: John Cupps, just said  
21 hello.

22 CHAIRPERSON MOULTON-PATTERSON: John Cupps, thank  
23 you.

24 Mr. Paparian.

25 BOARD MEMBER PAPARIAN: I'm up to date.

1 CHAIRPERSON MOULTON-PATTERSON: Mr. Washington.

2 BOARD MEMBER WASHINGTON: I have none.

3 CHAIRPERSON MOULTON-PATTERSON: Okay. Let's --  
4 now where had we left off? Oh, Ms. Peace has her cards.

5 BOARD MEMBER PEACE: Okay. I need to ex parte  
6 Denise Kennedy from WRW. And Matthew Marcotte from  
7 Landmark Logic and Mark Korte from Tri C Tire Recycling.  
8 I was talking to them at lunchtime regarding the Waste  
9 Tire Manifest Program.

10 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.  
11 We were still talking with staff, I believe, on  
12 Item Number 5. I do have another speaker slip of somebody  
13 who wants to speak again. And hopefully we can get back  
14 to you very quickly. But did you want to continue? I  
15 forget where we were.

16 WASTE TIRE MANAGEMENT MANAGER DIER: I think  
17 Mr. Jones might have had a question or comment.

18 CHAIRPERSON MOULTON-PATTERSON: That's right, he  
19 did.

20 Had you finished, Ms. Peace?

21 BOARD MEMBER PEACE: What's for now?

22 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones was  
23 going to speak after you did. Do you want to wait?

24 BOARD MEMBER PEACE: I'll wait.

25 CHAIRPERSON MOULTON-PATTERSON: Okay. Mr. Jones.

1 BOARD MEMBER JONES: Thank you, Madam Chair.

2 Just real quickly, I think that it's pretty clear  
3 to me -- I've been working with staff on this manifest  
4 system since it started. It was anticipated when we did  
5 the bill that this was going to move from what it was  
6 envisioned as to something different. It's clearly within  
7 the realm of what we had always anticipated.

8 I think working with the retreaders makes sense.  
9 I don't want to see us get too many more forms if we don't  
10 have to. We may be able to use the trip log with just  
11 another box or something.

12 But one of their proposals is that they use the  
13 DOT number they're issued as a retreader. Now, there may  
14 be other tire dealers that feed -- have a steady flow of  
15 truck casings that go to a retreader. They don't own  
16 their own plant. If that's the case, by using the DOT  
17 number, we've excluded part of a legitimate part of that  
18 industry. So it's going to be a little dicey dealing with  
19 that, because you don't want everybody in the world to say  
20 they're a retreader. But it's pretty clear as to who  
21 those people are that are picking up tires.

22 I mean, I know for a fact we gave hundreds of  
23 tires every week to tire dealers who did not have their  
24 own cap plants. They sent them to Bandag or somebody who  
25 was doing Bandag to be done. We don't want to create an

1 unfair business environment for those that don't have  
2 their own recap plant.

3 But the rest of this makes sense. And you know,  
4 I think that there may be some confusion about the success  
5 of this program, but this program is successful. We are  
6 matching -- or our staff is matching all three pieces of  
7 this transaction. And we're starting to understand how  
8 tires are flowing in the state of California, which is  
9 something we didn't have prior to the bill. So it takes a  
10 little bit of time. It's been seven months. And it takes  
11 longer than that to get things worked out. But I think  
12 there is a good first step. So I would suggest we approve  
13 this concept.

14 CHAIRPERSON MOULTON-PATTERSON: Okay. We have  
15 Mr. Paparian and then Ms. Peace.

16 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.

17 First of all, just kind of a big picture  
18 question. I know it's been really hard implementing the  
19 manifest system. I understand the reasons for that.

20 Overall, how is it going? Would you -- other  
21 than the electronic stuff, would you make changes in the  
22 future to make it work better, to, you know, align it with  
23 the original goals, or are we on track?

24 WASTE TIRE MANAGEMENT MANAGER DIER: I think over  
25 all I'd say we are on track. It's a real learning curve.

1 It's a massive effort. There's lot of computer  
2 programming up front. There was a lot of effort to  
3 educate the people with the new forms and how to fill them  
4 out. That's continuing. That's our main focus right now,  
5 is to educate and train everyone. But I think everything  
6 is in place, and it's just a matter of trying to get it to  
7 work now.

8 BOARD MEMBER PAPARIAN: Okay. And then in terms  
9 of the movement to the increased pilot, it's actually more  
10 than a pilot if you get close to 50 percent of the  
11 manifest. But you're looking at the 20 to 25 biggest  
12 haulers. What if somebody who's outside that group wants  
13 to do it, wants to -- can we accommodate more?

14 INFORMATION BRANCH MANAGER RALSTON: Absolutely.  
15 We have, since last June's statewide training, encouraged  
16 anyone in the hauling business who would like to become  
17 part of EDT, whether they be a large volume hauler or a  
18 small business, to contact us, that we would like to talk  
19 to them. So that has been a recurring request and  
20 solicitation on our part.

21 In this expansion that we're talking about,  
22 certainly a small business if they would to become part of  
23 EDT and can meet some of the requirements of having their  
24 own data, we would like to talk to them. If they are one  
25 of those individuals that doesn't have a lot of automation



1 capability, then the stand alone system would be something  
2 they might want to look into. We're focusing right now on  
3 the top 25 haulers, hoping to get 14 to 15 so that we can  
4 address some of the immediate resource issues associated  
5 with the paper forms. That's where that focus is coming  
6 from.

7 Obviously, we get the greatest bang for the buck  
8 by having those large-volume haulers in the EDT program.  
9 But eventually, no, we'd like to get as many people in as  
10 possible, as many businesses in as possible from any of  
11 the three levels. We'd like to talk to them, and we'd  
12 love to sit down and talk about the possibilities within  
13 their environment.

14 BOARD MEMBER PAPARIAN: I'd encourage that. The  
15 less paper, the better. And it makes it better for  
16 everybody all around if we can accomplish that.

17 In terms of matching up the manifests, I think we  
18 heard right before lunch from Ms. Kennedy that she's  
19 already gotten some notices questioning about  
20 discrepancies in manifests. Are we starting to send out a  
21 lot of those, or are we trying to catch up still?

22 WASTE TIRE MANAGEMENT MANAGER DIER: We're just  
23 now implementing the final phase of the system where we're  
24 trying to reconcile the loads, the three pieces of paper.  
25 Because of the delays Doug talked about in getting all

1 those pieces in, we aren't to a point of confidence yet on  
2 being able to say exactly whether something is reconciled  
3 or not. Our focus right now and the notice we've been  
4 sending out, we call advisory letters, are identified and  
5 listed out the errors and omissions that we're finding.  
6 Right now we're, again, trying to focus on getting the  
7 forms filled out completely and correctly so those  
8 advisories have been focused on the errors we've seen.

9 BOARD MEMBER PAPARIAN: We're not really focusing  
10 on enforcement yet?

11 WASTE TIRE MANAGEMENT MANAGER DIER: No. We're  
12 not. We'll still in an education and training mode.

13 BOARD MEMBER PAPARIAN: Any idea when the  
14 enforcement mode might start up?

15 WASTE TIRE MANAGEMENT MANAGER DIER: We're  
16 discussing that internationally right now with the Legal  
17 Office, Program staff, and IMB to see exactly how much  
18 effort we have to make, you know, to try and get  
19 compliance before we shift into the enforcement mode.

20 CHAIRPERSON MOULTON-PATTERSON: Just real briefly  
21 because --

22 INFORMATION BRANCH MANAGER RALSTON: Just real  
23 quickly, on EDT we are being able to reconcile loads  
24 because we get complete trip data once a month. So the  
25 rate on that has been upwards of 85 percent on the

1 reconciliation. So we are moving forward on that piece.

2 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.  
3 Ralston.

4 Ms. Peace.

5 BOARD MEMBER PEACE: Then again, the pilot  
6 project has been on two of the largest haulers. They're  
7 the ones that are going to have the staff and the people  
8 to understand and to do this.

9 I'm thinking about the other -- and here you're  
10 going to spend \$125,000 to get 20 more of the biggest  
11 haulers on this electronic system. And from what I can  
12 see, it's not the biggest haulers that are the problem.  
13 They weren't the ones that are illegally dumping in the  
14 first place. You're putting more burden and stuff on them  
15 in trying to get the largest haulers on the system when  
16 it's the other 780 small haulers are probably doing all  
17 the illegal dumping. So I don't see -- we're going to  
18 expand this project -- put more money to this project,  
19 expand this project. We're still not addressing the core  
20 problem here.

21 INFORMATION BRANCH MANAGER RALSTON: One of the  
22 objectives of SB 876 was to provide accountability on the  
23 part of generators, haulers, and end users in terms of the  
24 tires they picked up, hauled, or delivered. In terms of  
25 the larger haulers, they are required to submit

1 information to us, as is anybody involved in this program.

2 One of the very difficult business problems we're  
3 faced with right now is this influx of paper and the  
4 information that's on it, making sure that we get the  
5 paper timely and then correcting errors so we can begin to  
6 reconcile loads.

7 BOARD MEMBER PEACE: As long as there's 780 other  
8 haulers out there that could be hauling illegally and not  
9 even filling out a manifest form, how is that ever going  
10 to solve the problem?

11 WASTE TIRE MANAGEMENT MANAGER DIER: That's  
12 another issue, and another one we're trying to address  
13 with regard to educating and tracking things locally. And  
14 that's what we're trying to achieve through our local  
15 enforcement grant program, to have enough people locally  
16 out on the ground to visit the haulers, the generators,  
17 and end users to ensure that they are complying, that they  
18 are filling out the forms, and we are being able to track  
19 the tires.

20 BOARD MEMBER PEACE: We're helping the largest  
21 haulers. We're going to help them get on this system and  
22 this pilot project. Are we going to eventually help the  
23 other 780?

24 WASTE TIRE MANAGEMENT MANAGER DIER: The offer is  
25 open to all 850. We're not excluding anyone. If anybody

1 wants to try and come into the EDT program, they're more  
2 than welcome.

3 BOARD MEMBER PEACE: How much does that cost to  
4 get into the EDT program?

5 WASTE TIRE MANAGEMENT MANAGER DIER: A phone  
6 call, to start with.

7 BOARD MEMBER PEACE: Do they have to have a  
8 computer? What do they have to have? Do they have to  
9 have programs and computers and employees to do that? How  
10 much does it cost?

11 WASTE TIRE MANAGEMENT MANAGER DIER: It would  
12 depend on what they have to start with. If they have a  
13 computer and they have accounting software that is  
14 amenable to our needs, the cost could be minimal. If they  
15 don't have the computer they're still --

16 BOARD MEMBER PEACE: Out of the 800 haulers, how  
17 many would you say would have computers?

18 WASTE TIRE MANAGEMENT MANAGER DIER: I wouldn't  
19 want to make a guess on that.

20 CHAIRPERSON MOULTON-PATTERSON: Thank you.

21 BOARD MEMBER PEACE: I don't see how can you call  
22 this system successful at all. I know it's new, but how  
23 can you call it successful at all when you have a backload  
24 of 60,000 forms? And we're still --

25 BOARD MEMBER JONES: 60,000 out of how many?

1 60,000 out of 300,000 is --

2 BOARD MEMBER PEACE: 300,000 pieces of paper, and  
3 they call us the Waste Board?

4 BOARD MEMBER JONES: Ms. Peace, we have 34  
5 million tires on the ground and didn't know where any of  
6 them came from.

7 BOARD MEMBER PEACE: We still don't know.

8 BOARD MEMBER JONES: Yeah, actually, we do.

9 BOARD MEMBER PEACE: No, because we still have  
10 all these small haulers illegally picking up tires, and  
11 they're still not being accounted for.

12 BOARD MEMBER JONES: Actually, they are.

13 BOARD MEMBER PEACE: The larger haulers that are  
14 picking up 50 percent of the tires, they were already  
15 accounting for their tires. They weren't the ones that  
16 were having the problem.

17 BOARD MEMBER JONES: How do you know that?

18 CHAIRPERSON MOULTON-PATTERSON: If I might  
19 interrupt, I haven't had a chance to speak, and I think  
20 I've been very good about letting everybody else to speak.

21 This many program is in its infancy. And I  
22 certainly feel -- it's certainly nowhere where, you know,  
23 we want it to be. But this is a huge public health and  
24 safety issue. And I mean, the problems we had when I came  
25 on this Board, you know, the Westly tire fire and the

1 critical, critical problems, this is a start.

2           You know, in my opinion, my vote, certainly we  
3 need to give relief to the retreaders. And I like your  
4 idea on that. I would go along with that. I think you've  
5 got to keep it narrow so nobody else takes advantage of  
6 that. And I think, you know, we've got to continue with  
7 electronic data.

8           Along the way, I'm very much concerned about the  
9 small business owner and doing everything we can to help  
10 them. That's what I think we're here for. So, you know,  
11 I certainly -- I'm ready to go ahead and direct staff to  
12 proceed with expansion of the EDT program and also to  
13 start emergency regs for the retread industry, as long as  
14 we keep it narrow. And I don't hear -- we might have one  
15 or two objections, and certainly we'll hear those. But I  
16 think at this point in it, you know, this is a huge  
17 problem. As Mr. Lee says, this is an elephant.

18           BOARD MEMBER PEACE: It's not just a huge  
19 problem. It's a sinking ship. We're trying to bail out  
20 the water with little buckets of water. We need to go  
21 back to the drawing board and try to get some real  
22 solutions to this problem.

23           CHAIRPERSON MOULTON-PATTERSON: Thank you. Okay.

24           Anyone else want to give direction?

25           BOARD MEMBER JONES: You're right on target.

1 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

2 And we will move. People are going to miss their  
3 planes. So we're going to move to 11, then 10, then 8.  
4 And so if we can switch over, switch gears for a second to  
5 11.

6 This is Revised Full Solid Permit for the Prima  
7 Deshecha Landfill in Orange County. And if you could  
8 briefly give us an update, and we'll go from there.

9 MR. GEBRE-HAWARIAT: Good afternoon. In 2002,  
10 the Orange County Board of Supervisors approved an amended  
11 GDP, or a General Development Plan, in order to provide  
12 for an effective management of the 1530 acre site.

13 For planning purposes, the GDP divided the site  
14 into five zones. The current and interim use of Zones 1  
15 and 4 is landfilling operations. Therefore, per the  
16 amended 2002 GDP, the proposed revised permit is allowing  
17 the following changes of the landfill: To establish that  
18 landfill operations take place on 819 acres of the 1530  
19 acre site and to delineate a combined footprint of the 699  
20 acres in the two refuge disposal zones.

21 The permit is also to establish landfill  
22 elevations of 600 feet above mean sea level in Zone 1, and  
23 1,110 feet above mean sea level in Zone 4. The permit is  
24 likewise to increase the permitted maximum receipt of  
25 biosolids from 85 to 350 tons per day. Also to increase



1 the permitted maximum traffic volume of the landfill from  
2 to 1472 to 1797 vehicles per day. Lastly, the revised  
3 permit has established that a total landfill designed  
4 capacity, that's air space, of 172.9 million cubic yards  
5 and a projected site life of about 63 years.

6 As we have indicated in the table on page 11-4 of  
7 the agenda item, all of the requirements for the proposed  
8 revised permit have been met. Therefore, staff recommends  
9 that the Board adopt Solid Waste Facility Permit Decision  
10 Number 2004-52 concurring with the issuance of Solid Waste  
11 Facility Permit No. 30-AB-0019.

12 With us today are Ms. Patricia Henshaw, the LEA;  
13 Ms. Janet Goss, the Director of the Orange County  
14 Integrated Waste Management Department; Mr. Richard  
15 Haberman, the Site Manager; and Mr. Oscar Velski, the site  
16 Senior Engineer. They're all here to answer any questions  
17 you may have. This concludes the presentation.

18 CHAIRPERSON MOULTON-PATTERSON: Thank you.  
19 Ms. Goss, did you wish to speak, or are you just here if  
20 we have questions?

21 MS. GOSS: Just if you have any questions.

22 CHAIRPERSON MOULTON-PATTERSON: I see no  
23 questions from any of my Board members.

24 Mr. Jones.

25 BOARD MEMBER JONES: Madam Chair, I'd like to

1 move adoption of Resolution 2004-52, Consideration of the  
2 Revised Full Solid Waste Facility Permit for the Prima  
3 Deshecha Landfill in Orange County.

4 BOARD MEMBER MEDINA: Second.

5 CHAIRPERSON MOULTON-PATTERSON: We have a motion  
6 by Mr. Jones, seconded by Mr. Medina.

7 Please call the roll on Resolution 2004-52.

8 SECRETARY WADDELL: Jones?

9 BOARD MEMBER JONES: Aye.

10 SECRETARY WADDELL: Medina?

11 BOARD MEMBER MEDINA: Aye.

12 SECRETARY WADDELL: Paparian?

13 BOARD MEMBER PAPARIAN: Aye.

14 SECRETARY WADDELL: Peace?

15 BOARD MEMBER PEACE: Aye.

16 SECRETARY WADDELL: Washington?

17 BOARD MEMBER WASHINGTON: Aye.

18 SECRETARY WADDELL: Moulton-Patterson?

19 CHAIRPERSON MOULTON-PATTERSON: Aye.

20 We'll now go to Item Number 10, also has a timing  
21 problem, and then on to 8.

22 And number 10, this is Consideration of a New  
23 Full Solid Waste Facilities Permit for the Inland Regional  
24 Materials Recovery Facility and Transfer Station, San  
25 Bernardino County.

1 MS. OHIOSUMUA: The proposed permit would allow a  
2 maximum of 1,950 tons per day, 463 vehicles per day.  
3 Board staff have made all the required findings, including  
4 the finding that the facility is identified in the  
5 non-disposal facility element amendment that was approved  
6 by the Board earlier today.

7 Therefore, the proposed new facility is in  
8 conformance with the County's non-disposal facility  
9 element as amended. Having established all the  
10 requirements have been met, Board staff recommends that  
11 the Board adopt Solid Waste Facility Permit Decision  
12 Number 2004-51, concurring with the issuance of the Solid  
13 Waste Facility Permit Number 36-AA-0412.

14 The San Bernardino County LEA and the operator  
15 are here to answer any questions that you might have.

16 That concludes staff's presentation.

17 CHAIRPERSON MOULTON-PATTERSON: Thank you very  
18 much. I know a number of us visited this site, and I have  
19 a number of lights.

20 Ms. Peace was first, then Mr. Paparian.

21 Ms. Peace is going to make the motion.

22 Mr. Paparian.

23 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.  
24 I just want to say I did visit the site. I know a number  
25 of others did. And from what I could see, it's in the

1 type of location that this type of facility ought to be.  
2 It was bounded on two sides by freeway. There's kind of a  
3 storage facility on one side, industrial-type activity  
4 across the street, railroad tracks. And looked like a  
5 great operation as well.

6 CHAIRPERSON MOULTON-PATTERSON: I agree.

7 Ms. Peace.

8 BOARD MEMBER PEACE: I also toured the facility.  
9 It's a very nice facility. And I would like to move  
10 Resolution 2004-51, Consideration of the New Solid Waste  
11 Facilities Permit Transfer Processing Facility for the  
12 Inland Regional Materials Recovery Facility and Transfer  
13 Station, San Bernardino County.

14 BOARD MEMBER MEDINA: Second.

15 CHAIRPERSON MOULTON-PATTERSON: We have a motion  
16 by Ms. Peace, seconded by Mr. Medina to approve Resolution  
17 2004-51. Please call the roll -- or without objection. I  
18 see no objections. Let's just substitute the previous  
19 roll call.

20 Now that takes us to Number 8, our last item that  
21 I think has a huge time problem. Consideration of Revised  
22 Full Solid Waste Facility Permit for the Taft Sanitary  
23 Landfill in Kern County.

24 MR. DEIDRICK: Madam Chair, Board members, my  
25 name is Chris Deidrick. I'm with the Permitting and

1 Inspections Branch.

2           The Taft Sanitary Landfill's current permit was  
3 issued by the local enforcement agency back in September  
4 of 1997. The proposed changes for this revised permit  
5 include the following: One, a change in the hours of  
6 operations; two, a change in the design capacity or total  
7 air space; and three, a change in the estimated closure  
8 date.

9           Board staff have determined that all the  
10 requirements of this proposed permit have been fulfilled.  
11 Board staff recommend that the Board adopt Board  
12 Resolution Number 2004-49 concurring with the issuance of  
13 Solid Waste Facility Permit Number 15-AA-0061.

14           For your information, here today to respond to  
15 any questions on this item representing the local  
16 enforcement agency is Diane Wilson of the Kern County  
17 Environmental Health Services Department, and representing  
18 the operator is Daphne Washington, Director of the Kern  
19 County Waste Management Department.

20           CHAIRPERSON MOULTON-PATTERSON: Thank you.

21           Ms. Peace.

22           BOARD MEMBER PEACE: Yes. I just have a  
23 question. I don't know if you want to answer it or the  
24 LEA. I just noticed there was quite of few tire-related  
25 state minimum standards violates in 2001 and 2002. I was

1 just wondering what kind of measures they took to prevent  
2 those same violations in 2003.

3 MR. DEIDRICK: Actually, I recall the question  
4 earlier on. I did a little research on that. Actually,  
5 there were three separate inspections where there was  
6 violations of exceeding 500 or more tires stored outside  
7 of the landfill. And what this did was -- the reason  
8 there's so many violations, it was kind of this domino  
9 effect. If they have over 500 tires, then there are  
10 several sections in the Tire Technical and Operation  
11 Standards that are all of a sudden in violation.

12 So yes, I think there were -- I forget the exact  
13 total, but there was several. It just occurred on three  
14 separate dates. And then there was one inspection during  
15 2001 and two inspections during 2002. And when they  
16 achieved compliance, it was indicated on the LEA's  
17 inspection report the following month.

18 BOARD MEMBER PEACE: So it was basically for  
19 having too many tires.

20 MR. DEIDRICK: I think what occurred -- and  
21 Ms. Washington can respond to this if she likes. What  
22 happened was, I think there was a change at one point with  
23 their hauler, and so they exceeded the 500 tires, and then  
24 they corrected that issue. And they haven't had a problem  
25 since.

1 BOARD MEMBER PEACE: Thank you.

2 MR. DEIDRICK: You're welcome.

3 CHAIRPERSON MOULTON-PATTERSON: Thank you, Ms.  
4 Peace.

5 Mr. Jones.

6 BOARD MEMBER JONES: Madam Chair, I'd like to  
7 move adoption of Resolution 2004-49, Consideration of a  
8 Revised Full Solid Waste Facility Permit for the Taft  
9 Sanitary Landfill in Kern County.

10 BOARD MEMBER MEDINA: Second.

11 CHAIRPERSON MOULTON-PATTERSON: Motion by  
12 Mr. Jones, seconded by Mr. Medina to approve Resolution  
13 2004-49. Please substitute the previous roll call without  
14 objection. Okay.

15 That brings us back to Number 6. We're still on  
16 Permitting and Enforcement. This is a Discussion of the  
17 Local Enforcement Agency Evaluations through December  
18 31st, 2003. This is discussion item only.

19 Mr. Levenson.

20 DEPUTY DIRECTOR LEVENSON: Thank you, Madam  
21 Chair. Howard Levenson with Permitting and Enforcement  
22 Division.

23 As you said, this is our annual update to the  
24 Board on LEA evaluations that have occurred during the  
25 last year. It is timely, following last month's

1 discussion the Board had with the State Auditor and the  
2 finding the auditor made regarding the need to complete  
3 these on time, which we committed to doing.

4 So this is an update on what's happened in the  
5 last year. And we'd be happy to -- after the presentation  
6 by Gabe Aboushanab and Sharon Anderson, we would be happy  
7 to answer any questions you have.

8 CHAIRPERSON MOULTON-PATTERSON: Thank you very  
9 much.

10 (Thereupon an overhead presentation was  
11 presented as follows.)

12 LEA SUPPORT SERVICES BRANCH SUPERVISOR

13 ABOUSHANAB: Thanks, Howard. Good afternoon, Madam Chair  
14 and Board members.

15 We are presenting our annual update to the Board  
16 on the current status of LEA evaluations completed in the  
17 current, or third cycle, through December 31, 2003. This  
18 cycle began in May of 2003. This item also includes  
19 background information on the Board's LEA program which  
20 encompasses the formation of LEAs, their support, and  
21 evaluation to ensure their success and consistent  
22 enforcement of statute, regs, and solid waste facility  
23 permitted terms and conditions.

24 Currently, there are 56 Board-certified LEAs who  
25 perform permitting and inspection enforcement duties



1 throughout the state. Before I share the results with  
2 you, I would like to quickly direct your attention to your  
3 screens before you. The LEA evaluation is based on  
4 statute Section PRC 43214.

5 --o0o--

6 LEA SUPPORT SERVICES BRANCH SUPERVISOR

7 ABOUSHANAB: And it has six parts to it with respect to --  
8 two with respect to inspections, findings that is.

9 --o0o--

10 LEA SUPPORT SERVICES BRANCH SUPERVISOR

11 ABOUSHANAB: One for misrepresenting inspection results or  
12 diligence in conducting in inspections.

13 --o0o--

14 LEA SUPPORT SERVICES BRANCH SUPERVISOR

15 ABOUSHANAB: The third finding has to do with failure to  
16 prepare or cause to be prepared permits.

17 --o0o--

18 LEA SUPPORT SERVICES BRANCH SUPERVISOR

19 ABOUSHANAB: There is also one for approval of such  
20 documents inconsistent with statute and regulations.

21 --o0o--

22 LEA SUPPORT SERVICES BRANCH SUPERVISOR

23 ABOUSHANAB: And failure to take appropriate enforcement  
24 action is something we look at according to PRC 43214.

25 --o0o--

1 LEA SUPPORT SERVICES BRANCH SUPERVISOR

2 ABOUSHANAB: And failure to comply with or take actions  
3 that are inconsistent with regs.

4 --o0o--

5 LEA SUPPORT SERVICES BRANCH SUPERVISOR

6 ABOUSHANAB: Now once we make one of these findings --

7 --o0o--

8 LEA SUPPORT SERVICES BRANCH SUPERVISOR

9 ABOUSHANAB: -- we have a stepped approach dealing with  
10 the problem.

11 --o0o--

12 LEA SUPPORT SERVICES BRANCH SUPERVISOR

13 ABOUSHANAB: This is through the Board-approved process.  
14 It's basically three steps. The first being an evaluation  
15 work plan, which is the most common solution. Briefly,  
16 it's a plan on how to take care of compliance issues on a  
17 side-by-side basis with due dates. This, by and large,  
18 takes care of most of our problems with LEA performance.

19 --o0o--

20 LEA SUPPORT SERVICES BRANCH SUPERVISOR

21 ABOUSHANAB: If that doesn't work, we have a second step,  
22 which is an administrative conference, which is basically  
23 a show of cause hearing where division management and LEA  
24 management meet and compel us not to go before the Board,  
25 let's say, for further action, if it's beyond the control

1 of the LEA.

2 --o0o--

3 LEA SUPPORT SERVICES BRANCH SUPERVISOR

4 ABOUSHANAB: And the third step is, of course, when we  
5 come before you for your input and action, should it go  
6 that far.

7 And we did include what Board actions can be  
8 taken, if you were to refer to page 64 in your agenda  
9 item. I will not go into the details there.

10 --o0o--

11 LEA SUPPORT SERVICES BRANCH SUPERVISOR

12 ABOUSHANAB: However, we get into the meat and potatoes  
13 here. We did ten complete evaluations since May through  
14 December. That's 10 out of 56 LEAs. And we find 70  
15 percent were totally fine, fulfilling all duties and  
16 responsibilities, and 30 percent that were not. That's  
17 three out of ten in this case. And two had findings but  
18 did not require work plans, and one did. And this will  
19 become clear in the next slide.

20 --o0o--

21 LEA SUPPORT SERVICES BRANCH SUPERVISOR

22 ABOUSHANAB: Now, when we made these findings based on  
23 this cycle since May, we found three cases where there was  
24 failure to exercise due diligence and inspection. By the  
25 way, that was for closed sites only. And it involved

1 these three jurisdictions, if you're curious.

2 --o0o--

3 LEA SUPPORT SERVICES BRANCH SUPERVISOR

4 ABOUSHANAB: And we also made a finding for failure to  
5 procure permits, one finding only. And it was involving  
6 that county.

7 --o0o--

8 LEA SUPPORT SERVICES BRANCH SUPERVISOR

9 ABOUSHANAB: And we find no cases of inappropriate  
10 enforcement so far --

11 --o0o--

12 LEA SUPPORT SERVICES BRANCH SUPERVISOR

13 ABOUSHANAB: -- or failure to maintain certification  
14 requirements --

15 --o0o--

16 LEA SUPPORT SERVICES BRANCH SUPERVISOR

17 ABOUSHANAB: -- or taking action inconsistent with  
18 statute.

19 --o0o--

20 LEA SUPPORT SERVICES BRANCH SUPERVISOR

21 ABOUSHANAB: Now, some of you, or all of you, may recall  
22 we've had LEAs on work plans from the second cycle. There  
23 were 14 of them.

24 --o0o--

25 LEA SUPPORT SERVICES BRANCH SUPERVISOR

1 ABOUSHANAB: And for your benefits, here's the list of the  
2 jurisdictions or LEAs that completed successfully work  
3 plans on the left side. And the ones that are currently  
4 in progress are on the right. If you look down you notice  
5 the city of San Jose was on a work plan, and that involved  
6 hiring staff and that was completed in February. I think  
7 with the economic conditions in the state, it took  
8 approximately six months to accomplish that and that might  
9 be understandable.

10 --o0o--

11 LEA SUPPORT SERVICES BRANCH SUPERVISOR

12 ABOUSHANAB: This gets a little complicated as far as  
13 describing the work plans for you, because we started the  
14 third cycle, and we added one more to the three I  
15 mentioned before, which is Siskiyou County for permitting  
16 issue at one site. And one more slide will show --

17 --o0o--

18 LEA SUPPORT SERVICES BRANCH SUPERVISOR

19 ABOUSHANAB: -- that we added one more, Merced County.  
20 This really doesn't fit any cycle because the Permitting  
21 and Enforcement Committee asked that we evaluate Merced  
22 County for certain reasons. So in total we have five LEAs  
23 currently in progress in their work plans.

24 --o0o--

25 LEA SUPPORT SERVICES BRANCH SUPERVISOR

1 ABOUSHANAB: And this should explain what those five were  
2 involving. The three, for Fresno, Mono, Alpine, and  
3 Siskiyou involve permit revisions. And the one that I  
4 mentioned earlier for city of San Jose was completed with  
5 hiring new staff. And the last one is for the one outside  
6 the sequence for Merced. And we made several findings  
7 that required substantial LEA program reform, and we are  
8 currently evaluating the proposals on how supervision  
9 interacts with staff and our staff interacts with the  
10 Board and how such problems are solved between them.

11 Basically this concludes my portion of the  
12 presentation. I'd be happy to try to answer any questions  
13 you might have.

14 CHAIRPERSON MOULTON-PATTERSON: Ms. Peace.

15 LEA SUPPORT SERVICES BRANCH SUPERVISOR

16 ABOUSHANAB: At this point I'll give the floor to  
17 Sharon --

18 CHAIRPERSON MOULTON-PATTERSON: Ms. Peace has a  
19 question.

20 BOARD MEMBER PEACE: As you said in the audit  
21 report, they had mentioned that we didn't do our audits on  
22 a timely basis. Did our evaluation -- did they get  
23 behind, or were the auditors just -- did they not quite  
24 understand the whole evaluation process and how involved  
25 it was?

1 LEA SUPPORT SERVICES BRANCH SUPERVISOR

2 ABOUSHANAB: No. There was a percentage of LEA  
3 evaluations that were not complete within three-year cycle  
4 for various reasons. We try to reconcile differences  
5 between, you know, the database here and what the LEA says  
6 was accomplished. So we're trying to fill holes and gaps  
7 in data most of the time and reconcile differences that,  
8 when arise for a couple of three years as far as issues  
9 went, sometimes they take more time. However, we've  
10 undergone some thinking and procedural changes internally  
11 here to hopefully eliminate or minimize that. If we do  
12 the math at this point, I think you'll see that. If we've  
13 done ten since May, that's roughly 20 a year. So that's  
14 roughly 60 in three years. We have 56. So I think if we  
15 keep going this way, we should be okay.

16 BOARD MEMBER PEACE: Okay. Thank you. Good job.

17 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian.

18 BOARD MEMBER PAPARIAN: Thank you.

19 And I've probably asked this before. This issue  
20 has come up before. So bear with me just a second. When  
21 we are the LEA, as we are in several jurisdictions, do we  
22 get evaluated every three years, too?

23 LEA SUPPORT SERVICES BRANCH SUPERVISOR

24 ABOUSHANAB: Yes, we do.

25 BOARD MEMBER PAPARIAN: Who does the evaluations

1 of us?

2 LEA SUPPORT SERVICES BRANCH SUPERVISOR

3 ABOUSHANAB: Well, usually depends on workload. One of my  
4 four staff will be tasked with that. And we look at them  
5 in an identical manner as all LEAs. We review the same  
6 database, conduct the same investigation and discussions  
7 and so forth.

8 BOARD MEMBER PAPARIAN: Do we ever come up short?

9 LEA SUPPORT SERVICES BRANCH SUPERVISOR

10 ABOUSHANAB: We do. We miss a couple of closed sites here  
11 and there, but that's about it, though.

12 BOARD MEMBER PAPARIAN: Okay. Yeah. I'm not  
13 sure where I want to go with that. I don't know that --  
14 have any of the LEAs raised concerns about us evaluating  
15 ourselves, or this just hasn't been an issue?

16 LEA SUPPORT SERVICES BRANCH SUPERVISOR

17 ABOUSHANAB: Early in the process they did. They did  
18 early on. But after they saw the outcome and that we  
19 actually did find the same as them, things if they were  
20 wrong, it became not a problem.

21 BOARD MEMBER PAPARIAN: Thanks.

22 CHAIRPERSON MOULTON-PATTERSON: Thank you. And I  
23 really echo the thanks that -- you know, I know this is a  
24 big job because you get them done every three years and  
25 that's great. We appreciate that commitment.



1           Did you want to speak, Ms. Anderson? You had a  
2   portion of this.

3           LEA SUPPORT SERVICES BRANCH MANAGER ANDERSON:  
4   Thank you, Chair Moulton-Patterson. I think Gabe did a  
5   great job summarizing. I was going to add a tiny part  
6   about the triggers, but we're all familiar with that. I  
7   think we understand that the Permitting and Enforcement  
8   Committee did pull a trigger on Merced so now we're used  
9   to that and we don't need to go into much detail on that.  
10   So I thank you for giving us some time to give you the  
11   update.

12          CHAIRPERSON MOULTON-PATTERSON: Thank for the  
13   great work.

14          On to Number 7 for very brief report. And then  
15   I'll turn it over to Mr. Paparian, and we'll get that vote  
16   on the record.

17          BOARD MEMBER PAPARIAN: Madam Chair, I'm happy to  
18   move it at this point. I just thought it should not be on  
19   consent.

20          CHAIRPERSON MOULTON-PATTERSON: Why don't you  
21   move it. We got off to a slower start. I see no  
22   questions.

23          BOARD MEMBER JONES: I have one.

24          CHAIRPERSON MOULTON-PATTERSON: Mr. Jones has  
25   one. Go ahead, Mr. Jones.

1           BOARD MEMBER JONES: Something has come up just  
2 recently. This effort to close these trickling landfills  
3 are triggering fees from the Water Board in the amount of  
4 about \$21,000 per site, which normally wouldn't be paid.  
5 They normally would be part of the 1.40 that's given to  
6 this Board. So the very entities that we're trying to  
7 help and close landfills are actually going to have more  
8 expense than they had ever anticipated through this  
9 program.

10           So while it's not covered under these regs, it  
11 was the perfect opportunity that we need to be working  
12 with the Water Board to figure out what's going to happen.  
13 It's \$21,600 per site. A lot of these counties and cities  
14 can't afford it. And why would you close your site to  
15 take on that kind of money, to pay that kind of dough? So  
16 I think we need to be aware of that through this program.

17           CHAIRPERSON MOULTON-PATTERSON: Thank you for  
18 bringing it up. I think we ought to have some discussions  
19 with the Water Board and get that straighten out.

20           Mr. Paparian.

21           BOARD MEMBER PAPARIAN: I'll move Resolution  
22 2004-48 regarding the Adoption of Proposed Landfill  
23 Closure Program Regulations.

24           BOARD MEMBER MEDINA: Second.

25           CHAIRPERSON MOULTON-PATTERSON: Motion by

1 Mr. Paparian, seconded by Mr. Medina to approve Resolution  
2 2004-48.

3 Let's call the roll on this one.

4 SECRETARY WADDELL: Jones?

5 BOARD MEMBER JONES: Aye.

6 SECRETARY WADDELL: Medina?

7 BOARD MEMBER MEDINA: Aye.

8 SECRETARY WADDELL: Paparian?

9 BOARD MEMBER PAPARIAN: Aye.

10 SECRETARY WADDELL: Peace?

11 BOARD MEMBER PEACE: Aye.

12 SECRETARY WADDELL: Washington?

13 BOARD MEMBER WASHINGTON: Aye.

14 SECRETARY WADDELL: Moulton-Patterson?

15 CHAIRPERSON MOULTON-PATTERSON: Aye. Okay.

16 That brings us to Item 13, Consideration -- oh,  
17 9. Okay. Thanks.

18 DEPUTY DIRECTOR LEVENSON: Thank you, Madam  
19 Chair.

20 CHAIRPERSON MOULTON-PATTERSON: Consideration of  
21 a Revised Full Solid Waste Facilities Permit for the San  
22 Bruno Transfer Station, San Mateo County.

23 DEPUTY DIRECTOR LEVENSON: Madam Chair, Howard  
24 Levenson. I'd like to make a couple introductory comments  
25 and then turn it over to staff.

1           As you know, Board members, staff's  
2 recommendation in this item is based on the information we  
3 have before us. It's that the Board directs staff to  
4 conduct an initial study prior to taking action on the  
5 proposed permit. If we're so directed, we can complete  
6 this initial study and bring the permit -- proposed permit  
7 back to you for consideration at the April Board meeting.

8           This is obviously not a typical permit item. So  
9 I'd like to have staff explain to you in some detail what  
10 we generally provide LEAs in terms of guidance on CEQA  
11 situations, particularly ones involving Notice of  
12 Exemption, and then its reasoning behind this particular  
13 recommendation on this item.

14           After the presentations by Reinhard Hohlwein and  
15 Mark de Bie, both Permitting staff and Legal staff are  
16 prepared to answer any further questions you have. And  
17 with that, I'll turn to Reinhard.

18           MR. HOHLWEIN: Good afternoon, Board members. My  
19 name is Reinhard Hohlwein with the Permitting and  
20 Inspections Branch.

21           This item regards an existing large volume  
22 transfer facility located in the industrial portion of the  
23 city of San Bruno, located in northern San Mateo County  
24 near the San Francisco Airport. This site receives,  
25 processes, and transfers waste from the San Bruno City

1 area.

2           The Board last acted on a permit for this site in  
3 2000 when the site's peak tonnage level was increased from  
4 120 tons per day to 250 tons per day, as supported by a  
5 Negative Declaration issued at that time.

6           The proposed permit as submitted will double the  
7 permitted tonnage from 250 tons per day to 500 tons per  
8 day; increase traffic counts from 111 vehicles to 164  
9 vehicles per day; increase the design capacity from 666  
10 tons per day to 768 tons per day; and allows the facility  
11 to accept and transfer waste 24 hours a day, seven days a  
12 week; instead of current operating hours of 4:00 a.m. to  
13 4:00 p.m. Monday through Friday and 8:00 to 12:00 on  
14 Saturday for public use.

15           The facility was inspected by myself in  
16 conjunction with the LEA in January of 2004. And the  
17 operations as observed on that day were complaint with  
18 state minimum standards. Board staff are continuing to  
19 seek information relative to consistency with all state  
20 minimum standards for the proposed operations. The  
21 Board's Office of Local Assistance has determined the site  
22 is in conformance with the County's non-disposal facility  
23 element.

24           The city of San Bruno Planning Commission found  
25 the approval of conditional use permit on October 21st,

1 2003, was exempt from the requirements of CEQA utilizing a  
2 categorical exemption found in CEQA guidelines Section  
3 15301. Board staff were initially informed by the  
4 operator in writing of the Commission's planned action on  
5 October 27th, 2003, after the Commission had approved the  
6 project and the operator had filed a Notice of Exemption  
7 for the project.

8           The application package and proposed permit along  
9 with the LEA findings were received here on January 2nd.  
10 Staff have reviewed all the received documents for the  
11 proposed project. After review of those documents, staff  
12 found they could not determine that the project would or  
13 would not have any potentially significant environmental  
14 effects. Staff continue to seek additional information  
15 regarding the project from the operator, city planning  
16 staff, the LEA, and other available sources. This process  
17 is still ongoing.

18           Therefore, at this time staff does not have the  
19 information needed to make a recommendation for action on  
20 the project, but instead are seeking more direction from  
21 the Board to pursue development of an initial study prior  
22 to making a recommendation. Both the operator and LEA are  
23 here and available to answer any questions. I can answer  
24 any questions, perhaps, and Mark will also provide you  
25 with any additional background regarding staff's request.

1 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you  
2 very much.

3 We do have a speaker, but can the 60-day time  
4 frame be stopped until the compliance with CEQA can be  
5 completed?

6 PERMITTING AND INSPECTION BRANCH MANAGER DE BIE:  
7 Madam Chair, Mark de Bie with Permitting and Inspection.  
8 The quick answer is yes. If you will, I do have some sort  
9 of background information before the speakers come up.

10 CHAIRPERSON MOULTON-PATTERSON: Okay. I'm sorry.  
11 Go right ahead, Mr. De Bie.

12 PERMITTING AND INSPECTION BRANCH MANAGER DE BIE:  
13 As Howard indicated, we thought it would be good to give  
14 the Board members some general background of how Board  
15 staff and the Board has approached CEQA to give you the  
16 context relative to this case that you're hearing today.

17 Board staff has conducted a number of outreach  
18 efforts relative to CEQA process defining the Board  
19 staff's roll, as well as the LEA's roll in the CEQA  
20 process, including Advisory 22, I believe, that was put  
21 out on June 1st, 1995 that had specific guidance relative  
22 to this very situation relative to the exemption coming  
23 forward with a permit.

24 We've also provided training to LEAs, operators,  
25 planning departments over the last ten years, six

1 trainings statewide, multiple venues, as well as at least  
2 four workshops dealing with permit issues and CEQA. Board  
3 staff continue to fine tune through the partnership effort  
4 with LEAs details relative to, again, the Board staff's  
5 roll in CEQA, as well as the LEA's roll in CEQA. In fact,  
6 at next month's conference, LEA Board staff conference,  
7 there will be a segment to address just this issue to,  
8 again, seek better clarity on what the expectation are.

9           In addition, I wanted to point out that the P&I  
10 Branch recently went through a restructure where we  
11 decentralized the CEQA function and placed it closer to  
12 the Permitting function so that better communication would  
13 occur between those staff doing CEQA processing and those  
14 doing permits.

15           And the focus of doing that change was to ensure  
16 that we would be better able to address CEQA issues early  
17 as possible. So that was a shift we've done just recently  
18 to try to get early on on these CEQA issues and not leave  
19 them to the very last minute. That had been the case in  
20 the past.

21           Talking more specifically about the case that  
22 we're looking at now, typically the type of changes that  
23 are being requested in this proposed permit would and have  
24 in the past come to the Board supported at a minimal with  
25 a Neg Dec. I will point out there have been changes to



1 permits -- revisions to permits that have been supported  
2 solely on exemptions. But if you review the record of  
3 those actions, they were very minor types of changes. An  
4 example might be a change in a half hour in opening or  
5 closing of the site, those sorts of things. And they were  
6 always associated with a lot of supporting background  
7 information relative to the decision made either by the  
8 local planning agency or the LEA relative to that  
9 exemption.

10 In this case, however, the exemption finding came  
11 to us both from the Planning Department and LEA with a  
12 minimal amount of background supporting information.  
13 That's where we find ourselves today as Board staff, not  
14 being able to give you a recommendation because we just  
15 don't have the supporting information that we typically  
16 find coming to us through the LEAs and/or the planning  
17 entity.

18 On page 9 of your agenda item there is a section  
19 that has an excerpt from the Planning Department's Staff  
20 Report to their Planning Commission. And that is  
21 basically all the information we have regarding the  
22 rationale behind the exemption. Typically, we see much  
23 more in terms of what amounts to a preliminary study.  
24 That goes through all of the potential issues that may be  
25 associated with that. That was not included in this

1   submittal.

2           As Reinhard indicated, since we received this  
3   permit in early January, we've been seeking additional  
4   information through the LEA, the operator, the Planning  
5   Department. We've also been trying to do some research on  
6   our own through the Board's own databases, as well as  
7   other informational sources to try to get a better  
8   understanding of what the potential impacts might be  
9   associated with this project.

10          I also want to point out this is not the first  
11   time that staff has come to the Board requesting this kind  
12   of direction, seeking additional information through the  
13   CEQA process. My research indicates back in 1995 the  
14   Board directed staff to do what amounts to an initial  
15   study for the East Quincy Transfer Station.

16          1997, as the EA -- newly appointed EA for the  
17   city of Paso Robles, a permit was initially submitted by  
18   the LEA with a Notice of Exemption when the Board became  
19   EA. The Board decided they needed to do an initial study  
20   and did a mitigated Neg Dec for that one. In 2001, the  
21   Board did an initial study Neg Dec for the Alturas  
22   Landfill.

23          So this is not a unique situation, and has  
24   occurred in the past with some success in terms of getting  
25   the information that Board staff feels is necessary to

1 support the Board's approval of these kinds of permits.

2 So I just wanted to give you that sort of  
3 background, history, and sort of the general approach  
4 we've taken to CEQA.

5 CHAIRPERSON MOULTON-PATTERSON: Thank you.

6 Mr. Jones.

7 BOARD MEMBER JONES: Thank you, Madam Chair.

8 There was also a Notice of Exemption for the  
9 Guadelupe Landfill that was contested by staff that turned  
10 out that the facts that were delivered to this Board were  
11 not accurate. So that's probably one you ought to  
12 include.

13 You say that you didn't know anything about this  
14 thing until January, that's not what I've heard from  
15 the --

16 MR. HOHLWEIN: That's not what I said, Mr. Jones.

17 BOARD MEMBER JONES: You said first we heard  
18 about it was in January.

19 MR. HOHLWEIN: I made the point it was the first  
20 we heard about it in writing. We did have conversations  
21 with the operator.

22 BOARD MEMBER JONES: Were you told that the  
23 Planning Department was going to do a Notice of Exemption?

24 MR. HOHLWEIN: That it was possible, if not  
25 likely. I could have made a stand at that point and said

1 that would not work or point them in another direction,  
2 and I did not. I'm willing to say that was maybe an  
3 omission on my part. I would say that it was likely they  
4 would have proceeded anyway. But I can't say that.

5 BOARD MEMBER JONES: Right. But I mean, one of  
6 the biggest things that comes to this Board is this  
7 illusion that staff is not aware of any of this stuff  
8 through the process until the day that a permit is  
9 completely delivered. And that is not the case. Because  
10 everybody -- or I would say the majority of people that  
11 are trying to get a permit through, both the LEA and the  
12 operator, are working through Board staff continually so  
13 they don't hit unexpected roadblocks.

14 So I think when you get a notice in October that  
15 went to all the neighbors as well as the city of San  
16 Jose -- I mean South San Francisco about what was going to  
17 be in front -- and I don't know if you got this, but I'm  
18 assuming you did. I was told that you did. That, to me,  
19 is the time that we should have said something, not, you  
20 know, six months after the fact. Because there's a lot of  
21 money that gets involved in these processes.

22 DEPUTY DIRECTOR LEVENSON: Mr. Jones, Howard  
23 Levenson, and I do want to respond to that. Two points.  
24 One is, it's my understanding that we did not get that  
25 Notice about the hearing that would be held with Planning

1 Department. We did get an indication after the Notice of  
2 Exemption had been approved that that had happened.

3 I also want to say that it is always our intent  
4 to be working with the LEA and the operator early on in  
5 the cycle to avoid these kinds of problems. In hindsight,  
6 as Reinhard said, we should have been in communication  
7 with the operator earlier on this issue. So we agree with  
8 that. But it doesn't change the problem that we have  
9 before us at this point that we still don't have  
10 sufficient information to make the finding about this.

11 BOARD MEMBER JONES: But the City Planning  
12 Department did after the public hearing.

13 PERMITTING AND INSPECTION BRANCH MANAGER DE BIE:  
14 We can't tell you today -- Board staff can't tell you what  
15 information the City Planning Department had because it  
16 hasn't been provided to us. And we've requested that of  
17 the City Planning Department.

18 All we've been provided with is a copy of their  
19 staff report. We went to the Internet and got the  
20 minutes. And we've included basically the information  
21 that was available -- or is available through those  
22 sources in your agenda item package. That's it, the one  
23 paragraph that we have so far.

24 BOARD MEMBER JONES: That's all the information  
25 you guys got ahead of time?

1 PERMITTING AND INSPECTION BRANCH MANAGER DE BIE:

2 Well, not ahead of time. This was after the hearing.

3 BOARD MEMBER JONES: So you got nothing ahead of  
4 time?

5 PERMITTING AND INSPECTION BRANCH MANAGER DE BIE:

6 Not relative to the Planning Commission's hearing, no.

7 CHAIRPERSON MOULTON-PATTERSON: Thank you. We  
8 have other -- were you finished, Mr. Jones?

9 BOARD MEMBER JONES: Yeah.

10 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian,  
11 then Mr. Medina.

12 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.

13 I wanted to try to understand a couple of issues.  
14 One is how we're able to delay this beyond the 60 days. I  
15 think this is probably a more legal question. I'll start  
16 with that, and then I have another question about CEQA.

17 STAFF COUNSEL BLEDSOE: Michael Bledsoe from the  
18 Legal Office.

19 Mr. Paparian, CEQA guidelines Section 15111  
20 provides basically for this kind of situation. When  
21 there's a permit process like a land use permit, or in our  
22 case a solid waste facilities permit, that has a short  
23 time frame for approval such as that -- and would result  
24 in automatic approval if the governing body does not act,  
25 and such that you would not have time to complete CEQA by

1 going through the normal CEQA process. The guidelines  
2 provide that that permit time line is stayed for a long  
3 enough period of time for you to complete CEQA so that the  
4 decision-making body can act on CEQA and then act on the  
5 permit itself. So CEQA has anticipated that kind of  
6 problem.

7 BOARD MEMBER PAPARIAN: Is there any debate about  
8 that? Has that been tested before?

9 STAFF COUNSEL BLEDSOE: There are cases on that,  
10 so I don't think there's any debate on it.

11 BOARD MEMBER PAPARIAN: In terms of understanding  
12 the CEQA issues, the permit before us had a Notice of  
13 Exemption. And as I'm understanding it, the staff is  
14 suggesting it should have had at least a Negative Dec and,  
15 you know, perhaps something else. Could you explain the  
16 distinction between an Exemption and a Negative Dec?

17 STAFF COUNSEL BLEDSOE: Yes, I can. But let me  
18 first say that at this point it doesn't matter what  
19 environmental document should have been done at the local  
20 level, because it's too late for anybody to challenge it.

21 But the difference between a Notice of Exemption  
22 and a Negative Declaration, the government agency that  
23 receives a permit application under the CEQA process, its  
24 first step is to figure out whether the project is subject  
25 to CEQA at all, you know, as to whether it might be exempt

1 for some reason, because there are statutory exemptions  
2 and there are categorical exemptions layed out in the  
3 guidelines.

4           So when a government agency decides that one of  
5 the categorical exemptions applies, for example, it will  
6 make the determination this project is simply exempt from  
7 CEQA. And after it approves the project it may, if it  
8 wants to, file a Notice of Exemption. The purpose of  
9 filing that Notice of Exemption is to put in place a very  
10 short 35-day Statute of Limitations during which anyone  
11 can challenge that decision.

12           A Negative Declaration, on the other hand, is a  
13 situation where the government agency finds that the  
14 project is not exempt from CEQA, that CEQA applies. So it  
15 goes through an initial study process basically of doing a  
16 rough evaluation of the project to see whether it might  
17 have environmental impacts with mitigations or whether it  
18 would have any environmental impacts. And if that  
19 evaluation shows that the project will not -- either with  
20 or without mitigations will not have any significant  
21 environmental effects, then it's appropriate for the lead  
22 agency, the government agency to adopt a Negative  
23 Declaration. If the project might have or will have  
24 environmental impacts, then an EIR is necessary.

25           BOARD MEMBER PAPARIAN: So what we would do if we



1 went along with the staff recommendation here is we --  
2 would we be initiating the initial study at that point, or  
3 would we be asking the locals to do that?

4 STAFF COUNSEL BLEDSOE: Correct. Where we are  
5 legally, in the normal process with a permit like this or  
6 your typical solid waste facilities permit, the Planning  
7 Department will have done a Negative Declaration or maybe  
8 an Environmental Impact Report on the project. That's the  
9 lead agency, the first government agency having the most  
10 responsibility for the project.

11 We would then be in a position of a responsible  
12 agency. And as such, we have to accept what the lead  
13 agency did with CEQA. We have to accept that their  
14 Environmental Impact Report or their Negative Declaration  
15 was adequate, unless we sue them within the appropriate  
16 time. So if we disagree, we have to sue them within  
17 30 days, normally.

18 When there's a Notice of Exemption, however,  
19 basically what's happened is that lower government agency  
20 has decided that CEQA does not apply so it's exempt. You  
21 know, there's no CEQA evaluation in effect. There is an  
22 evaluation, but it's not the -- doesn't result in a  
23 Negative Declaration. And so a subsequent government  
24 agency, such as the Waste Board in this case, is not bound  
25 by the local agency's determination that the project is

1 exempt. So we have to make our own decision as to whether  
2 the project is exempt or whether a Negative Declaration or  
3 Environmental Impact Report is required.

4 BOARD MEMBER PAPARIAN: So again, if we go along  
5 with the staff recommendation, what would happen from here  
6 forward?

7 STAFF COUNSEL BLEDSOE: Staff recommendation is  
8 from here forward, staff would commence -- I mean, the  
9 Board would give that direction to staff. The 60-day  
10 clock would be stayed for as long as necessary. Staff  
11 would commence preparing an initial study evaluating  
12 whether this project might have an environmental impact or  
13 whether we need to impose mitigation measures that would  
14 prevent it from having an environmental impact.

15 And as Howard indicated, that process would take  
16 45 days or so, leading back to the Board and at the April  
17 meeting.

18 BOARD MEMBER PAPARIAN: If we found that some  
19 mitigation was needed, we would then have to go back to  
20 the LEA and have the LEA put whatever conditions in the  
21 permit.

22 STAFF COUNSEL BLEDSOE: Well, I do not think this  
23 has come to the Board, that particular issue. Our Board  
24 is not in a position -- at least historically, it has been  
25 the Board's position that it was not able to impose

1 conditions on a solid waste facilities permit. However,  
2 under CEQA, the Board does have the authority to adopt  
3 mitigation measures to require mitigation measures on the  
4 project, as long as those mitigations are within the  
5 statutory authority of the Waste Board. So we could  
6 impose measures regarding odor or dust.

7 BOARD MEMBER PAPARIAN: We can impose measures  
8 almost outside the permit that's before us?

9 STAFF COUNSEL BLEDSOE: Correct, but under CEQA.

10 PERMITTING AND INSPECTION BRANCH MANAGER DE BIE:  
11 If I may, Mark de Bie with P&I. There's a little  
12 different take on that scenario. I think there was a step  
13 there we would go through, and that would be to go to the  
14 applicant as well as the LEA, involve them in the  
15 conversation and say, "We're finding these potentially  
16 significant impacts. Do you want to modify your project  
17 in any way that would, in effect, mitigate those?" And  
18 then we would be able to do a mitigated Neg Dec. So CEQA  
19 allows for that process, that kind of discussion  
20 negotiation to take place. So that could occur in between  
21 there, too.

22 STAFF COUNSEL BLEDSOE: I agree with Mark. It's  
23 really more of a negotiated process at this time. Because  
24 from the applicant's perspective, the applicant would  
25 prefer to modify its project slightly in order to have a

1 Mitigated Negative Declaration adopted rather than having  
2 an EIR required.

3 CHAIRPERSON MOULTON-PATTERSON: Thank you.

4 Mr. Medina and then Ms. Peace.

5 BOARD MEMBER MEDINA: Thank you, Madam Chair.

6 I have a couple of questions. The first  
7 question, on page 9, it says that "No documentation of  
8 analysis of the larger proposed project has been  
9 completed. The only analysis that's been developed is for  
10 up to 250 tons per day, 12-hour operations." So we do not  
11 as yet have any analysis of the impacts of the larger  
12 proposed project?

13 PERMITTING AND INSPECTION BRANCH MANAGER DE BIE:

14 That is correct. We have in the record a Negative  
15 Declaration that was done in '99/2000 that analyzed the  
16 potential impacts relative to 250 tons per day, 12-hour  
17 operation, Monday through Friday. And --

18 BOARD MEMBER MEDINA: But not to the larger one?

19 PERMITTING AND INSPECTION BRANCH MANAGER DE BIE:

20 And no similar information at all relative to going to the  
21 500 level.

22 BOARD MEMBER MEDINA: And in that regard, I  
23 wanted to ask a question in regard to the traffic impacts.  
24 Because of the increase in traffic -- is the traffic  
25 coming in from the Bay Shore Freeway 101? Is that coming

1 on to -- is that going to go through residential streets?

2 MR. HOHLWEIN: The area is light industrial. The  
3 current hours are 4:00 a.m. to 4:00 p.m. You can draw  
4 your own conclusions as to whether that would impact the  
5 rush hour traffic on the latter end. We don't have a  
6 clear proposal, which is, I suppose, one of the many minor  
7 questions that we have about what the traffic circulation  
8 patterns would be and what the traffic impacts actually  
9 might be. So we're not clear on that.

10 PERMITTING AND INSPECTION BRANCH MANAGER DE BIE:  
11 If I may, Mary Madison-Johnson visited the site last  
12 Thursday and has maybe a little bit more to add about what  
13 our expectation right now is on how the traffic flow will  
14 be relative to the freeway since she basically was in the  
15 area and was talking to the operator about that.

16 But as Reinhard indicated, that's one of the  
17 points we're not clear about, is just specifically the  
18 traffic flow in and around the site, but also the transfer  
19 rigs, where they're going, you know, how far away, that  
20 sort of thing. That's not been clarified as of yet.

21 BOARD MEMBER MEDINA: My concern is in regard to  
22 any traffic going through residential areas.

23 PERMITTING AND INSPECTION BRANCH SUPERVISOR  
24 MADISON-JOHNSON: Yes, Mr. Medina. What I observed when I  
25 was at the facility was any access from the freeway would

1 travel through commercial, light-industrial-type settings  
2 before it gets to the facility. I do not see anywhere  
3 where, except for the haul routes, where the vehicles  
4 would be going through a residential area. But the  
5 residential area is directly across the railroad tracks  
6 from the facility. Although that is not a direct -- you  
7 cannot access that road across the railroad tracks. But  
8 impacts could be, there could be noise impacts.

9 BOARD MEMBER MEDINA: Noisier than the trains  
10 that go through that?

11 PERMITTING AND INSPECTION BRANCH SUPERVISOR  
12 MADISON-JOHNSON: Potentially. You know, the train's not  
13 going through there at midnight to 6:00 in the morning or  
14 midnight to 4:00 in the morning. So there some impacts  
15 when the operation goes to 24 hours a day.

16 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.  
17 Medina.

18 Ms. Peace.

19 BOARD MEMBER PEACE: When the Board takes over as  
20 lead agency for CEQA, who absorbs the cost?

21 PERMITTING AND INSPECTION BRANCH MANAGER DE BIE:  
22 Ms. Peace, Mark de Bie. In the three examples that,  
23 again, in my research I came up with, in two of those the  
24 Board staff was able to complete the initial study and  
25 resulting CEQA document internally. So we absorbed the

1 cost basically.

2 With the Paso Robles one as EA, there was a  
3 charge made to the applicant. There was a contract  
4 relationship set up with General Services, because we had  
5 to access a special consultant. So the applicant paid to  
6 General Services, who then paid the consultant. But  
7 again, Board staff's cost was absorbed. And we have staff  
8 available and willing and able to do the initial study  
9 without a major impact to workload at this time.

10 BOARD MEMBER PEACE: They've mentioned like four  
11 times in nine years that the Board staff didn't think the  
12 LEA had done an adequate job reviewing CEQA. I don't  
13 think Board staff takes this lightly. Staff has said that  
14 they take responsibility for not catching it sooner.  
15 Maybe that's unfortunate, but the bottom line is we are  
16 the responsible party. And we need to make sure that  
17 everything is on the up-and-up and that everything  
18 complies with CEQA.

19 So I personally am ready to move a motion.

20 CHAIRPERSON MOULTON-PATTERSON: We do have  
21 speakers, and then I'll turn to you. Don Gambelin, Norcal  
22 Waste Systems on behalf of the San Bruno Garbage Company.

23 MR. GAMBELIN: Good afternoon. Donald Gambelin  
24 on behalf of the San Bruno Garbage Company. San Bruno  
25 Garbage Company is a company of about 35 employees. Has

1 been serving San Bruno for about a 55 years utilizing this  
2 transfer station, for which the permit is before you, for  
3 the past 35 years.

4 I want to read a statement into the record and  
5 then I have a couple of other comments.

6 "San Bruno Garbage Company applied to revise  
7 it's use permit from the city of San Bruno and  
8 its Solid Waste Facilities Permit from San Mateo  
9 County LEA to alter the garbage haul route,  
10 operation hours, and material throughput for the  
11 San Bruno Transfer Station.

12 "The city approved the use permit revision,  
13 finding the project exempt from CEQA. The LEA  
14 concurred in this finding, approving the Solid  
15 Waste Facility Permit revision and submitted a  
16 permit package to the Waste Board on 12-30-03.  
17 The matter is Agenda Number 9.

18 "The Waste Board staff report for Item 9  
19 identifies the Waste Boards options as: One,  
20 concur; two, object; three, do nothing; or four,  
21 provide staff direction to complete an initial  
22 study and appropriate environmental document  
23 prior to taking action on the proposed permit.

24 "Staff recommends Option 4, but staff's  
25 recommendation should be rejected because Option



1 4 is illegal for two reasons. First, PRC  
2 44009(a) limits the Waste Board's authority to  
3 Options 1, 2, or 3. The Waste Board is therefore  
4 not authorized to implement Option 4. Second,  
5 even if Option 4 were regarded as a special case  
6 of Option 2, i.e., an objection on the ground  
7 that further CEQA studies should be done, PRC  
8 44009(c) prohibits objections except on specified  
9 grounds, and those grounds do not include the  
10 need for further CEQA study.

11 "The CIWMB has delegated CEQA complaince  
12 duties to the San Mateo County LEA. That's in 14  
13 CCR 18081(f). The LEA has fulfilled those duties  
14 here, concurring in a Notice of Exemption issued  
15 by the city as lead agency during the CEQA  
16 process. The Waste Board was free to consult  
17 with the LEA during that process. Referencing  
18 PRC 43217 and 21003.1 requiring that any  
19 consultation occur as soon as possible, not as  
20 late as possible, but is not authorized to reopen  
21 CEQA for a second bite at this time.

22 "The City and the LEA want this project  
23 approved, because Waste Board's staff recommended  
24 Option 4 is illegal, and there is no basis for  
25 objection to the issuance of the Revised Solid

1 Waste Facility Permit. The Waste Board should  
2 concur."

3 A couple issues regarding the time line. Our  
4 original application -- San Bruno's original application  
5 was submitted to the city on August 29th of 2003. Within  
6 a week, one of my planning staff was on the phone both to  
7 the LEA and to the Waste Board staff notifying them of the  
8 application submittal to the City Planning Department and  
9 the fact that this would include a solid waste facility  
10 permit revision subsequent to any local permit action.

11 On 10-8-03, all of the property owners within 300  
12 feet were notified of the public hearing. That  
13 notification clearly stated that there were going to be  
14 changes to the existing haul route, hours of operation,  
15 and material throughput. There were further conversations  
16 with the LEA and with Waste Board staff directly. My  
17 planning staff made those calls directly. So we know that  
18 they occurred.

19 The public hearing -- there was a full public  
20 hearing on this matter on 10-21 of 03. And a decision was  
21 made by the Planning Department at that time. I'll note  
22 the only dissenting vote on the Planning Commission at  
23 that time was the Planning Commissioner who wanted us that  
24 very week to be open on Sunday, and he wasn't pleased that  
25 it might be a couple months before we could open up.

1           The solid waste facility permit application was  
2 submitted to the LEA on October 22nd of '03. And based  
3 upon the LEA's direction to us, a copy of that permit  
4 application was immediately forwarded to the Waste Board  
5 staff. That's in October of '03.

6           Now with all that said, let me make a couple of  
7 other comments. One, there was a question as to whether  
8 or not the Waste Board can assume lead agency role. There  
9 was an answer given to them. The answer was if there was  
10 a Notice of Exemption issued and the Statute of  
11 Limitations has expired, then a responsible agency can, in  
12 fact, become lead agency.

13           But there's a couple of qualifiers to that. One,  
14 it can only do that if it actually is a responsible  
15 agency. It has to issue a permit. The Waste Board, to my  
16 knowledge, does not actually issue the permit. The LEA  
17 issues the permit. The Waste Board has delegated that  
18 responsibility to the LEA through the LEA certification  
19 process. Secondly, it can only assume lead agency role if  
20 there's substantial evidence in the record that there may  
21 be an impact. This record, in fact, is completely devoid  
22 of any such information. The operation has had one  
23 violation in the last 48 months of inspection. Certainly,  
24 the operator has shown their capability to be fully  
25 compliant with state minimum standards to prevent any

1 potential impact.

2 With that said, I wouldn't be here in front of  
3 you today if there was some major problem with the open  
4 public process that this went through, if Board staff and  
5 LEA were not fully informed since last September of San  
6 Bruno Garbage Company's intention.

7 So I have to ask a few questions. Was the public  
8 afforded the opportunity to express their issue?  
9 Absolutely. There was a public hearing at the local level  
10 in October. This is a very close-knit community.  
11 Everybody knows what is going on in San Bruno. And  
12 certainly if anybody had any issues with this permit  
13 revision, they would have expressed it at that point in  
14 time.

15 When the city proposed a Notice of Exemption, did  
16 they seek input? The answer there is yes. By notifying  
17 the LEA, by notifying all the parties they proposed to  
18 adopt a Notice of Exemption, they were seeking input as to  
19 whether or not that was the appropriate decision to be  
20 made. We heard the Waste Board staff earlier say they  
21 decided to stay out of it at that point in time.

22 Was the LEA informed in all stages? Absolutely.  
23 In fact, my planning staff had several conversations when  
24 the LEA had questions during this permit process.

25 Basically, was anyone who needed to be involved

1 or wanted to be involved duly notified of this process?

2 And the answer is yes.

3 This concept of a lead agency is well known.

4 It's a concept that affords the public with an opportunity

5 to participate in a process whereby environmental issues

6 get identified. These environmental issues are important

7 for the public to know, for the lead agency to know, and

8 all subsequent agencies to know and utilize in any action

9 they might take.

10 It's one environmental review process. And this

11 one environmental review process can support multiple

12 permit processes. There is only one solid waste facility

13 permit issued. That's the permit that's issued by the

14 LEA. To have a second environmental review process at

15 this point is not fair. It's certainly not contemplated

16 by statute and regulation, particularly in a case such as

17 this where there is no evidence in the record that alludes

18 to any potential significant impact.

19 We ask that you vote to concur with the permit --

20 with the proposed permit revision. The procedural gaming

21 that's going on by staff should be frowned upon and should

22 stop.

23 There's two things that the staff recommendation

24 is really telling us. One is this, that a Notice of

25 Exemption -- and we heard this confirmed by staff today.

1 That a Notice of Exemption shouldn't be appropriate for  
2 any permit revision, except in a very particular situation  
3 if it's very minor.

4 Well, this flies in the face of the process. The  
5 process says, go out, identify if there's potential  
6 impacts or not, and figure out what is the appropriate  
7 documentation to pursue. So the fact we're dealing with  
8 the perception that a Notice of Exemption is not  
9 appropriate, and that after we've dealt with that  
10 perception we go out and look for problems. This seems  
11 like an abuse of discretion and certainly flies in the  
12 face of due process. It robs the process of its  
13 integrity. It robs the applicant and the public of due  
14 process. It wastes resources, and it certainly seems to  
15 be out of line with general objectives of efficient  
16 processing by CalEPA agencies.

17 The second thing the recommendation is telling us  
18 is that Board staff can sit on its hands during the local  
19 process and only at the very end can they bring up their  
20 item and start us through a second process, again, which  
21 statute and regulation don't even contemplate.

22 The only thing we've heard about potential  
23 impacts, traffic might be one. But the traffic was looked  
24 at at the local level. Once you're outside of the  
25 transfer station, you're on city streets. That's a local

1 jurisdictional issue.

2           The only other thing we've heard is that -- and  
3 I'm trying to state this succinctly, but the only issue we  
4 know of is that there's a lack of information to know if  
5 there's an issue out there. Now whether or not that makes  
6 any sense, you be the judge. But we haven't even been  
7 able to identify whether or not there's a potential  
8 impact, yet we're going on the basis that a Notice of  
9 Exemption is not appropriate.

10           Again, we ask that you concur with the permit. I  
11 will take any questions at this point.

12           CHAIRPERSON MOULTON-PATTERSON: Thank you.

13           Who is the LEA, and is he or she here?

14           MR. GAMEBLIN: Yes. Greg Shirley with San Mateo  
15 County.

16           CHAIRPERSON MOULTON-PATTERSON: Any questions  
17 or -- Mr. Paparian has a question.

18           BOARD MEMBER PAPARIAN: Donald, I'm not sure if  
19 this is for you or the LEA. But my understanding of CEQA  
20 is that to get an exemption, there are specific exceptions  
21 allowed for within CEQA. Do you know which exemption this  
22 project was intended to fall under? And that might be for  
23 the LEA.

24           MR. GAMBELIN: My understanding, Mr. Board Member  
25 Paparian -- and this was in the staff report by the local

1 Planning Department. It was a categorical exemption. It  
2 was a minor modification to an existing operation. As  
3 we've been very clear in the project, there is no physical  
4 change to the facility itself. It is simply a matter of  
5 what is handled within the four walls of a building.  
6 Frankly, if you stand outside, you don't know if there's  
7 50 tons a day or if there's 100 tons a day, 1,000 tons a  
8 day handled within that building. It's all fully  
9 contained within that building.

10 BOARD MEMBER PAPARIAN: For our staff, how would  
11 we distinguish between minor and non-minor under this sort  
12 of exemption?

13 PERMITTING AND INSPECTION BRANCH MANAGER DE BIE:  
14 Just to clarify, the exemption is in CEQA guidelines  
15 15301, which is existing facility. And we do have the --  
16 most of the verbiage from the actual section in the agenda  
17 item. What's not included are various examples, but the  
18 examples are just that, they're examples. So it's not  
19 held to just those examples. There could be other kinds  
20 of changes that are outside those examples.

21 The one sentence that staff has looked at  
22 specifically on this particular class exemption is the  
23 reference that no matter what the minor modification is,  
24 that the key consideration is whether the project involves  
25 negligible or no expansion of existing use. And again,



1 staff doesn't have enough information really to tell you  
2 definitively whether going from 250 to 500 tons is a  
3 negligible or no expansion and use. On the surface, it  
4 does seem to be a bit more than negligible. So if it is  
5 not negligible, then you cannot use this exemption.

6 BOARD MEMBER PAPARIAN: But then the stuff that  
7 would not be negligible would be the 250 tons a day and  
8 possibly the increase in traffic?

9 PERMITTING AND INSPECTION BRANCH MANAGER DE BIE:  
10 24 hours additional operation day for self-hauls.

11 BOARD MEMBER PAPARIAN: Thank you.

12 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

13 BOARD MEMBER JONES: Thank you, Madam Chair.

14 I think it's important what Mr. Bledsoe had said  
15 originally, that there's 35 days to object to the issuance  
16 of this. We knew about it. We had 35 days. We didn't do  
17 anything about it. And now six months later we made a  
18 determination that we want to do something about it. That  
19 is not good government. That is not good government.

20 And you know, the rules are in place for a  
21 reason. I think it's clear. If there was something  
22 specific that you guys wanted to ask a question about, you  
23 should have asked a question. The fact that you didn't  
24 had to let people think that you didn't have any  
25 objections. I mean, to just go out and see if, in fact,

1 the city of San Bruno did its job right, the Planning  
2 Commission and the staff, is not, I don't think, what  
3 these laws were put in place to do.

4 The Notice of Exemption also carried with it in  
5 this case -- noticed everybody around the neighborhood,  
6 and a public hearing. There was a public hearing on this.  
7 They didn't just say, "We don't think nothing has to  
8 happen here." There was a public hearing. People were  
9 notified. The city next door was notified. Nobody showed  
10 up and objected. Or if they did, it didn't -- they didn't  
11 raise enough objections to get three no votes. I think it  
12 was four to one. And according to what Mr. Gameblin just  
13 said, the one was just upset he couldn't get Sunday  
14 dumping quicker than waiting for a permit to be approved.

15 At some point we have to honor our system. We  
16 have to honor the law and not just make it up as we go  
17 along. I mean, I'm going to move this, but only after  
18 everybody speaks.

19 CHAIRPERSON MOULTON-PATTERSON: Thank you,  
20 Mr. Jones.

21 We have Mr. Medina, and we also had Ms. Peace.  
22 Ms. Peace is next. And she also said she wanted to make a  
23 motion.

24 Mr. Medina and then Ms. Peace.

25 STAFF COUNSEL BLEDSOE: Pardon me, Mr. Medina, if

1 I might. Point of order, please. I would like to rebut  
2 the legal arguments made by the operator.

3 CHAIRPERSON MOULTON-PATTERSON: Yeah. I'd like  
4 to have you -- let's have Mr. Medina.

5 BOARD MEMBER MEDINA: Thank you, Madam Chair.

6 I'm very familiar with the area. I've driven  
7 through there many times. I didn't even know this  
8 facility existed because it's -- again, it doesn't really  
9 stand out. My main concern here was in regard to the  
10 impacts of the traffic, whether it went through any  
11 residential areas and because there was proximity to the  
12 freeway and the nature of this particular area. I don't  
13 see that there will be significant traffic impacts. So I  
14 had no other major concerns here in regard to the impacts  
15 of this project.

16 CHAIRPERSON MOULTON-PATTERSON: Thank you.

17 Would you like to hear the legal rebuttal first,  
18 Ms. Peace?

19 Mr. Bledsoe.

20 STAFF COUNSEL BLEDSOE: Thank you very much,  
21 Madam Chair.

22 Very briefly, I mean, the synopsis is --  
23 Mr. Gameblin is incorrect on the law in every respect as  
24 he stated it to you.

25 But just hitting the highlights here, the

1 applicant's argument that PRC 44009 limits the Board's  
2 authority to the first three options. The Integrated  
3 Waste Management Act is not the only California law that  
4 applies to the Waste Management Board. The Public Act  
5 applies to the Board. The Civil Code applies to the  
6 Board. The Open Meeting Act applies to the Board. And  
7 CEQA applies to the Board, among others.

8           The point is CEQA gives you -- subjects you to  
9 certain requirements that cannot be denied. It does  
10 exist. CEQA does apply to the Board's decision. Every  
11 discretionary decision that a public agency makes is  
12 subject to CEQA. And that's stated in statute and in  
13 guidelines.

14           Secondly, the applicant argues that because the  
15 CEQA problem is not one of the specified grounds in 44009,  
16 the Board may not object. Staff is not recommending that  
17 the Board object to this permit. Staff is saying that,  
18 "You don't have enough information, Board, to act on this  
19 permit." We have to go through CEQA first, then you may  
20 object or concur, depending on what the facts are.

21           Thirdly, that the Waste Board has delegated its  
22 CEQA duties to the LEA under our statutory scheme; that is  
23 incorrect. The Board has not delegated CEQA authority to  
24 any other agency. It has its own independent authority  
25 and is subject to CEQA. The LEA has also has its

1 obligations under CEQA.

2           Mr. Gambelin argued that the Board is not a  
3 responsible agency, because the Board does not issue the  
4 permit. The Board is a responsible agency, because it has  
5 a discretionary decision to make with respect to this  
6 permit. That is whether to object or concur. That's a  
7 discretionary permit making this decision subject to CEQA.  
8 Again, that responsibility for issuing the permit is, by  
9 statute, held by the local enforcement agency. But they  
10 may not issue a permit until the Board has concurred in  
11 it.

12           The statutes and regulations do contemplate  
13 subsequent environmental review in precisely this case  
14 where the first agency has decided the project is exempt.  
15 The second agency and any subsequent agencies have to make  
16 their own decision as to whether the project is exempt.

17           Mr. Gambelin argues that staff has said that  
18 Notice of Exemption or terminations of exemptions are  
19 almost never appropriate for solid waste facilities  
20 permits. That is correct. Rarely does an exemption  
21 apply. In this case they applied the existing facility  
22 exemption which is expressly not permitted when there's  
23 any sort of expansion of activity at the site. We're  
24 doubling the amount of tonnage at this site, increasing  
25 the traffic by 50 percent. There's ample evidence that

1 existing facility exemption does not apply.

2 Now was this the best process for LEA/Board  
3 coordination on CEQA? Absolutely not. We've been down  
4 this road before, and staff has gone to extreme lengths.  
5 And it's an ongoing job to try to work with lead  
6 agencies -- with local agencies in advantage of coming  
7 before the Board. We haven't succeeded in this case. But  
8 that does not mean you don't have the legal obligation to  
9 comply with CEQA.

10 You have not waived by virtue of the fact that  
11 staff did receive some notice that -- at least after a  
12 Notice of Exemption was filed, staff did receive that  
13 Notice. That is not to preclude you from complying with  
14 CEQA. You've not waived your opportunity to participate.  
15 We do not have the ability to sue the lead agency on this.  
16 I mean, that, clearly, time has run.

17 So the options that you have at this point  
18 consistent with CEQA are two. You can approve staff's  
19 recommendation, which is to assume the role of lead agency  
20 and do the necessary environmental evaluation and  
21 determine what kind of environmental document, if any --  
22 you could decide it's exempt. But determine what kind of  
23 environmental document is required. And based on the  
24 facts in the record, that would be my recommendation to  
25 you.

1           Your other option is to determine on the basis of  
2 substantial evidence presented to you today or that  
3 already exists in the record that the project is, indeed,  
4 exempt from CEQA. Substantial evidence -- if I may quote  
5 from CEQA for a moment, is "enough relevant information  
6 and reasonable inferences therefrom that a fair argument  
7 can be made to support a conclusion, even though other  
8 conclusions might be reached as well."

9           So you need to look to the record or to the  
10 comments of the operator to find is there a basis for  
11 making a decision that this project has no possibility of  
12 environmental effect. If you can make that finding, then  
13 you can find the project exempt today. That information  
14 has not been submitted to date. So I would suggest that  
15 if you want to go down that road, request that the  
16 applicant present substantial evidence to you that the  
17 project can't possibly have any environmental effect.

18           Thank you very much for the time.

19           CHAIRPERSON MOULTON-PATTERSON: Thank you,  
20 Mr. Bledsoe.

21           I know Ms. Peace is next, but I've been asked for  
22 a break. And we're going to be taking a ten-minute break.

23           (Thereupon a recess was taken.)

24           CHAIRPERSON MOULTON-PATTERSON: I'm calling the  
25 meeting back the order.

1 If you have any ex partes, Mr. Jones.

2 BOARD MEMBER JONES: Yes, Madam Chair. Greg  
3 Shirley of San Mateo County LEA.

4 CHAIRPERSON MOULTON-PATTERSON: Thank you.  
5 Ms. Peace.

6 BOARD MEMBER PEACE: I have none.

7 CHAIRPERSON MOULTON-PATTERSON: I have none.

8 Mr. Medina.

9 BOARD MEMBER MEDINA: None to report.

10 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian.

11 BOARD MEMBER PAPARIAN: I'm up to date.

12 CHAIRPERSON MOULTON-PATTERSON: Mr. Washington.

13 BOARD MEMBER WASHINGTON: I have none.

14 CHAIRPERSON MOULTON-PATTERSON: Okay. And I  
15 think we were going to Ms. Peace next.

16 Had you finished, Mr. Medina?

17 BOARD MEMBER MEDINA: I had.

18 CHAIRPERSON MOULTON-PATTERSON: And we'll come  
19 back to Ms. Peace.

20 BOARD MEMBER PEACE: Okay. Now four times in  
21 nine years, I really don't think Board staff makes a habit  
22 of waiting until the last minute. The LEA might have  
23 thought that a Notice of Exemption was enough, but these  
24 are not minor changes; doubling the hours, increasing the  
25 traffic, and the doubling of permitted tonnage. Those



1 aren't minor to me. And maybe what happened here today is  
2 not good government. But it wouldn't be good government  
3 to ignore CEQA obligations. Two wrongs don't make a  
4 right. We have to assess that CEQA was adequate for this  
5 site, and we have a legal and ethical reason to know if it  
6 does before we concur in this permit.

7 CHAIRPERSON MOULTON-PATTERSON: Okay. Do you  
8 want to make a motion, or Mr. Jones?

9 BOARD MEMBER JONES: Madam Chair.

10 CHAIRPERSON MOULTON-PATTERSON: Yes.

11 BOARD MEMBER JONES: Just a couple of things I  
12 think people need to understand. CEQA is to determine  
13 what the environmental impacts are. This is directly in  
14 the flight pattern of San Francisco Airport. How is noise  
15 from a garbage truck an issue? It is right next door to  
16 the railroad tracks that haul cow trains from 4:00 in the  
17 morning until 1:00 in the morning.

18 So I think I'm a firm believer and have said it  
19 for the seven years I've been here that I trust the LEAs.  
20 And I trust our staff, too. But I think in looking at  
21 something that happened four-and-a-half months ago and  
22 making a determination when you could have said something  
23 at the time to have even looked at it, that went through a  
24 public hearing, I think there is enough evidence on the  
25 record to support concurrence with this permit.

1           And therefore, I'm going to move adoption of  
2 Resolution 2004-50, Consideration of Revised Solid Waste  
3 Facility Permit for the San Bruno Transfer Station, San  
4 Mateo County.

5           CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian.

6           BOARD MEMBER PAPARIAN: Madam Chair.

7           CHAIRPERSON MOULTON-PATTERSON: We have a motion  
8 on the floor. Go ahead.

9           BOARD MEMBER PAPARIAN: Rather than bolus us up  
10 with parliamentary procedure and offering a substitute  
11 motion and so forth, I'd rather see what happens on this  
12 motion. I'm going to join Ms. Peace in voting no on this  
13 motion. And then if it doesn't pass, then presumably we  
14 would offer a new motion to support the staff  
15 recommendation.

16          CHAIRPERSON MOULTON-PATTERSON: Okay.

17          BOARD MEMBER PEACE: Does that mean I could move  
18 Resolution 2004-50 revised? Would that work?

19          CHAIRPERSON MOULTON-PATTERSON: I think --

20          BOARD MEMBER PAPARIAN: The process I was  
21 suggesting was rather than get into parliamentary  
22 procedure with substitute motions we just, you know, vote  
23 Mr. Jones' motion up or down. If it doesn't pass, then  
24 presumably Ms. Peace would offer her motion.

25          CHAIRPERSON MOULTON-PATTERSON: Okay. We have a

1 motion on the floor by Mr. Jones. We don't have a second.

2 BOARD MEMBER WASHINGTON: Second.

3 CHAIRPERSON MOULTON-PATTERSON: We have a motion

4 by Mr. Jones, and this is to go ahead and permit the

5 permit -- or to go ahead and approve the permit. And I

6 guess we can go either way. They're saying approve the

7 permit as it originally was. Okay. Just so we all

8 understand it. It was seconded by Mr. Washington.

9 Please call the roll.

10 SECRETARY WADDELL: Jones?

11 BOARD MEMBER JONES: Aye.

12 SECRETARY WADDELL: Medina?

13 BOARD MEMBER MEDINA: Aye.

14 SECRETARY WADDELL: Paparian?

15 BOARD MEMBER PAPARIAN: No.

16 SECRETARY WADDELL: Peace?

17 BOARD MEMBER PEACE: No.

18 SECRETARY WADDELL: Washington?

19 BOARD MEMBER WASHINGTON: Aye.

20 SECRETARY WADDELL: Moulton-Patterson?

21 CHAIRPERSON MOULTON-PATTERSON: No.

22 Okay. Who wants to make the next motion?

23 BOARD MEMBER PEACE: I'll like to make a motion

24 to move Resolution 2004-50 revised.

25 BOARD MEMBER PAPARIAN: I'll second that.

1           CHAIRPERSON MOULTON-PATTERSON: And that is to  
2 approve the staff recommendation; is that correct, Ms.  
3 Peace? So we have a motion by Ms. Peace, seconded by  
4 Mr. Paparian to approve Resolution 2004-50 --

5           BOARD MEMBER JONES: Madam Chair.

6           CHAIRPERSON MOULTON-PATTERSON: -- with the  
7 staff's recommendation.

8           Yes, Mr. Jones.

9           BOARD MEMBER JONES: Could I ask a question?

10          CHAIRPERSON MOULTON-PATTERSON: Sure.

11          BOARD MEMBER JONES: If this doesn't get four  
12 affirmative votes, then the permit would be issued by the  
13 LEA under the rules of not four votes to concur or not  
14 concur?

15          STAFF COUNSEL BLEDSOE: Michael Bledsoe, Legal  
16 Office. Yes, Mr. Jones, that's correct. If there is no  
17 decision by the Board, then there's no action by the  
18 Board. And the permit would be deemed approved after 60  
19 days.

20          BOARD MEMBER JONES: Thanks.

21          CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

22          For the reasons Ms. Peace stated -- you know, I'm  
23 sorry this didn't come up before. And I do have some  
24 sympathy there. But CEQA is very, very important. And  
25 I'd rather wait and find out more about it, so I'm going

1 to have to be voting with our staff. Okay.

2 Please call the role.

3 SECRETARY WADDELL: Jones?

4 BOARD MEMBER JONES: No.

5 SECRETARY WADDELL: Medina?

6 BOARD MEMBER MEDINA: No.

7 SECRETARY WADDELL: Paparian?

8 BOARD MEMBER PAPARIAN: Aye.

9 SECRETARY WADDELL: Peace?

10 BOARD MEMBER PEACE: Aye.

11 SECRETARY WADDELL: Washington?

12 BOARD MEMBER WASHINGTON: No.

13 SECRETARY WADDELL: Moulton-Patterson.

14 CHAIRPERSON MOULTON-PATTERSON: Aye.

15 So the Board did not make a decision. So it

16 rests with the LEA.

17 Is that correct, Mr. Bledsoe? I want to make

18 sure everything is done.

19 STAFF COUNSEL BLEDSOE: That is correct. There

20 will be no decision by the Board.

21 CHAIRPERSON MOULTON-PATTERSON: Thank you.

22 Moving right along, we'll go to Item 13, I

23 believe.

24 PERMITTING AND ENFORCEMENT DIVISION BRANCH

25 MANAGER WALKER: Scott Walker, Permitting and Enforcement

1 Division.

2 CHAIRPERSON MOULTON-PATTERSON: Excuse me. I  
3 apologize. There was a very quick one, Number 22. We're  
4 going to go to that. Mr. Schiavo assures me this is going  
5 to be quick. And I guess some of the people have a real  
6 timing problem. So I want to accord them the same  
7 courtesy I accorded my county, Orange County.

8 DEPUTY DIRECTOR SCHIAVO: Okay. Pat Schiavo,  
9 Diversion, Planning, and Local Assistance Division. And  
10 this is Consideration of a Request to Change the Base Year  
11 to 2002 for the Previously Approved Source Reduction  
12 Recycling Element for the City of Clayton in Contra Costa  
13 County. And Eric Bissinger will present.

14 CHAIRPERSON MOULTON-PATTERSON: Thank you.

15 MR. BISSINGER: Hello. The city of Clayton has  
16 submitted a request to change its base year from 1990 to  
17 2002. As a result of the base year study review,  
18 deductions were made to the diversion amounts claimed by  
19 the city. These adjustments can be viewed in detail  
20 referring to Attachment 3 of the agenda item.

21 With those changes, the city of Clayton's  
22 diversion rate for 2002 would be 48 percent. No  
23 extrapolations were used to calculate the diversion  
24 amount, and this request is well documented, as is  
25 generally consistent with the Board's standards of

1 accuracy.

2           Therefore, staff recommends that Board approve  
3 the request to change the base years for the city of  
4 Clayton to year 2002. And representatives from the  
5 jurisdictions are here to answer any questions you might  
6 have. Thank you.

7           CHAIRPERSON MOULTON-PATTERSON: Thank you.

8           Mr. Jones.

9           BOARD MEMBER JONES: Madam Chair, if there's no  
10 questions, I'll move adoption of Resolution 2004-45,  
11 Consideration of a Request to Change the Base Year to 2002  
12 for the Previously-Approved SRRE for the City of Clayton  
13 in Contra Costa County.

14           BOARD MEMBER MEDINA: Second.

15           CHAIRPERSON MOULTON-PATTERSON: We have a motion  
16 by Mr. Jones, seconded by Mr. Medina to approve Resolution  
17 2004-45.

18           Please call the roll.

19           SECRETARY WADDELL: Jones?

20           BOARD MEMBER JONES: Aye.

21           SECRETARY WADDELL: Medina?

22           BOARD MEMBER MEDINA: Aye.

23           SECRETARY WADDELL: Paparian?

24           BOARD MEMBER PAPARIAN: Aye.

25           SECRETARY WADDELL: Peace?

1 BOARD MEMBER PEACE: Aye.

2 SECRETARY WADDELL: Washington?

3 BOARD MEMBER WASHINGTON: Aye.

4 SECRETARY WADDELL: Moulton-Patterson?

5 CHAIRPERSON MOULTON-PATTERSON: Aye.

6 Now we'll go to number 13. Thank you.

7 DEPUTY DIRECTOR LEVENSON: Scott Walker will be  
8 presenting that item, Madam Chair.

9 PERMITTING AND ENFORCEMENT BRANCH MANAGER WALKER:  
10 Item 13 is Consideration of the Grant Awards for the Farm  
11 and Ranch Solid Waste Cleanup and Abatement Grants  
12 Program, Fiscal Year 2003-2004.

13 I'd like to just say I'm standing in for Carla  
14 Repucci who couldn't be here today. She deserves the  
15 majority of the credit for the work on this item and  
16 success of the program.

17 Three applications were requesting the cleanup of  
18 six sites were received for this quarter. The  
19 applications were reviewed, scored, and are being  
20 recommended for approval today in accordance with  
21 Board-approved regulations, policies, and procedures.

22 The total funding recommended is \$110,122.  
23 Approval by the Board would leave \$70,915 available for  
24 potential new applicants for the remainder of this fiscal  
25 year. I'd also like to note that the Board has been very



1 successful in increasing the utilization of this program  
2 in implementing SB 1328, which was effective this past  
3 January. We're basically well on target using the  
4 majority of the \$930,000 that was available for cleanup  
5 projects.

6 So in conclusion, recommends the Board adopt  
7 Resolution 2004-54 approving Grants Pursuant to the Farm  
8 and Ranch Cleanup and Abatement Grant Program for the Yolo  
9 County Resource Conservation District, the Hopland Band of  
10 Pomo Indians, and the Mendocino County Solid Waste  
11 Management Authority.

12 That concludes staff's presentation, and we're  
13 available to answer questions.

14 CHAIRPERSON MOULTON-PATTERSON: Thank you.

15 Mr. Jones.

16 BOARD MEMBER JONES: Madam Chair, just a quick  
17 question. On C, the Mendocino Solid Waste Authority, the  
18 grants requested were 40,317, and grant recommended is  
19 40,137. Is that a legitimate reduction, or are those  
20 numbers transposed?

21 PERMITTING AND ENFORCEMENT BRANCH MANAGER WALKER:  
22 I'd like to just note, based on the review of these  
23 applications, the budgets were reduced for two or three  
24 applicants. So we ferreted it out. The applicants agreed  
25 to it and we --

1 BOARD MEMBER JONES: I didn't have a problem. It  
2 was just coincidental, the numbers. And I thought maybe  
3 they got transposed.

4 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.  
5 Jones.

6 Any other questions?

7 BOARD MEMBER JONES: Madam Chair.

8 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

9 BOARD MEMBER JONES: I'd like to move adoption of  
10 Resolution 2004-54, Consideration of the Grant Awards for  
11 Farm and Ranch Solid Waste Cleanup and Abatement Program,  
12 Fiscal Year 2003-04.

13 BOARD MEMBER PEACE: Second.

14 CHAIRPERSON MOULTON-PATTERSON: We have a motion  
15 by Mr. Jones, seconded by Ms. Peace. Without any  
16 objections, we'll substitute the previous roll call.

17 Number 14.

18 DEPUTY DIRECTOR LEVENSON: Madam Chair, Number 14  
19 is Consideration --

20 CHIEF COUNSEL CARTER: Excuse me, Madam Chair.  
21 Marie Carter, Legal Office. You substituted the previous  
22 roll, which was a tie vote.

23 CHAIRPERSON MOULTON-PATTERSON: I thought we had  
24 Clayton in there. We just had a 6-0. Thank you. I  
25 wouldn't put it past me today.

1 BOARD MEMBER JONES: I thought about it for a  
2 second.

3 CHAIRPERSON MOULTON-PATTERSON: Thanks for  
4 keeping me on track.

5 DEPUTY DIRECTOR LEVENSON: This item is the New  
6 Projects for the Solid Waste Disposal and Co-disposal Site  
7 Cleanup Program. And Wes Mindermann will be presenting  
8 this item with two sites.

9 (Thereupon an overhead presentation was  
10 presented as follows.)

11 PERMITTING AND ENFORCEMENT DIVISION SUPERVISOR  
12 MINDERMAN: Good afternoon, Madam Chair, and members of  
13 the Board. Before you for consideration for approval  
14 today are --

15 --o0o--

16 PERMITTING AND ENFORCEMENT DIVISION SUPERVISOR  
17 MINDERMAN: -- two sites under the Solid Waste Disposal  
18 and Co-disposal Cleanup Program, as illustrated on this  
19 table. These will be the fifth and sixth projects  
20 considered during this fiscal year under the program.

21 --o0o--

22 PERMITTING AND ENFORCEMENT DIVISION SUPERVISOR  
23 MINDERMAN: The first site is known as the River Ranch  
24 Organics site. It's been in operation since early 1994.  
25 You may recall it as a site that was identified in March

1 2003 as one of the three highest priority Crippen-like  
2 sites requiring additional enforcement and corrective  
3 objection. As explained in the item, the enforcement  
4 history on this is fairly complex and goes back to October  
5 2000.

6 --o0o--

7 PERMITTING AND ENFORCEMENT DIVISION SUPERVISOR

8 MINDERMAN: A recent survey done at the site estimates  
9 there's about 87,000 cubic yards of wood waste and  
10 processed wood waste on the site. Our proposed project  
11 would remove all that material. We're working with --

12 --o0o--

13 PERMITTING AND ENFORCEMENT DIVISION SUPERVISOR

14 MINDERMAN: -- the local enforcement agency and the  
15 Riverside County Waste Management and Public Works  
16 Department and neighboring Orange County and San  
17 Bernardino County to find a beneficial use for this  
18 material. The preliminary estimate for the cleanup is  
19 about \$700,000, assuming we're going to be able to avoid  
20 tipping fees. Staff are recommending cost recovery for  
21 this site.

22 --o0o--

23 PERMITTING AND ENFORCEMENT DIVISION SUPERVISOR

24 MINDERMAN: In addition, Riverside County has committed  
25 to reimburse the Board up to \$100,000 that is being held

1 to support the owner's obligation under a cleanup and  
2 restoration agreement.

3 --o0o--

4 PERMITTING AND ENFORCEMENT DIVISION SUPERVISOR

5 MINDERMAN: The second site for your consideration is the  
6 New Idria Illegal Disposal Site. Here you can see an  
7 aerial photo, courtesy of the Department of Toxic  
8 Substances Control. Essentially, it's lot of illegal  
9 dumping on top of an old landfill and a mine tailings  
10 pile. This is another site that has a fairly lengthy  
11 enforcement history. And unfortunately, the owner right  
12 now is unable to comply with the provisions of his plea  
13 agreement.

14 --o0o--

15 PERMITTING AND ENFORCEMENT DIVISION SUPERVISOR

16 MINDERMAN: The discarded materials including trash,  
17 garbage, appliances, vehicles, tires, and inert debris.

18 Under the proposed project, the Board's  
19 contractor would remove illegally dumped surficial solid  
20 waste to an appropriate facility for disposal. County  
21 personnel are working with us to red tag vehicles. Our  
22 estimate for the cleanup is about \$175,000.

23 --o0o--

24 PERMITTING AND ENFORCEMENT DIVISION SUPERVISOR

25 MINDERMAN: As outlined in the item, based on a review of

1 the owner's reported financial condition, as well as the  
2 owner's concurrence and cooperation in the proposed Board  
3 managed remediation, and a review of the conditions at the  
4 site, staff are recommending that the approximately  
5 \$60,000 remaining in the district attorney's plea  
6 agreement fund and offer to the Board be deemed  
7 satisfaction of cost recovery in this matter.

8 As in all cases, the Board will reserve the right  
9 to pursue further cost recovery should the county or the  
10 Board discover significant assets not previously  
11 disclosed.

12 --o0o--

13 PERMITTING AND ENFORCEMENT DIVISION SUPERVISOR  
14 MINDERMAN: In summary, staff are recommending the Board  
15 approve both projects and adopt Resolution 2004-55. That  
16 concludes my presentation. I'm available to answer any  
17 questions. We also have representatives from, I think,  
18 one LEA right now, San Benito County to answer any  
19 questions also.

20 CHAIRPERSON MOULTON-PATTERSON: Thank you.

21 Ms. Peace.

22 BOARD MEMBER PEACE: Yes, I have a couple  
23 questions. On the River Ranch project, it says here in  
24 December 2003 that the LEA staff visited the site and  
25 observed that the owner/operator is making progress and

1 that it's estimated that will be completed by the spring  
2 of 2004. How is that looking?

3 PERMITTING AND ENFORCEMENT DIVISION SUPERVISOR

4 MINDERMAN: It's hard to say right now. That was our  
5 finding in December. We are hopeful that the responsible  
6 party is going to clean up the site. I can say right now,  
7 though, that they are in violation of the enforcement  
8 order against them, and that we're hoping that this  
9 strategy is going to be effective as it has on other  
10 sites, that by approving this cleanup to be done only if  
11 the responsible party fails to comply, that this will  
12 motivate them to complete the cleanup in a timely manner.

13 BOARD MEMBER PEACE: If he gets a lot of this off  
14 himself, chances are it wouldn't cost the whole 700,000  
15 and this goes back into the pot?

16 PERMITTING AND ENFORCEMENT DIVISION SUPERVISOR

17 MINDERMAN: That's correct. Every ton he removes is a  
18 ton we won't have to.

19 DEPUTY DIRECTOR LEVENSON: Ms. Peace, if I can  
20 just add, this strategy was very successful on the  
21 Bettencourt site, which we recently reported to you. In  
22 that case, the Board approved the cleanup, but the owner  
23 went ahead and did it at his own expense.

24 BOARD MEMBER PEACE: I guess I have a question on  
25 Idria.

1 PERMITTING AND ENFORCEMENT DIVISION SUPERVISOR

2 MINDERMAN: New Idria.

3 BOARD MEMBER PEACE: New Idria site. It says  
4 that an abandoned mine and the surrounding areas there  
5 have been designated by the U.S. EPA have been designated  
6 as superfund site.

7 PERMITTING AND ENFORCEMENT DIVISION SUPERVISOR

8 MINDERMAN: That is correct.

9 BOARD MEMBER PEACE: Once this site is cleaned  
10 up, what can the site be used for, if at all?

11 PERMITTING AND ENFORCEMENT DIVISION SUPERVISOR

12 MINDERMAN: Well, right now the site consists of the  
13 small town of Idria, which has a small number of residents  
14 in it. But, you know, essentially it will be what it was  
15 before the illegal dumping occurred on, which would be  
16 non-irrigated open space. So the uses of the land  
17 afterwards are going to be somewhat limited.

18 BOARD MEMBER PEACE: Open space, you couldn't put  
19 a park? You couldn't do anything with it?

20 PERMITTING AND ENFORCEMENT DIVISION SUPERVISOR

21 MINDERMAN: I would hazard to guess that you couldn't.  
22 It would be severely limited.

23 BOARD MEMBER PEACE: Are there other dumps like  
24 this in the state that we could clean up, and when we  
25 cleaned them up they can actually be used for something



1 when they're done?

2 PERMITTING AND ENFORCEMENT DIVISION SUPERVISOR

3 MINDERMAN: I'm not aware of any situation right now  
4 similar to the case we have at New Idria. I think to  
5 properly answer your question, though, is you really have  
6 to go back to 1994 when the legislation was enacted. What  
7 the Legislature said was the purpose of this program was  
8 to address solid waste issues at solid waste sites and  
9 also at what they called the co-disposal sites. And what  
10 New Idria is, essentially, under the definition is a  
11 co-disposal site. It is, for all intents and purposes, a  
12 superfund site or a hazardous release site with solid  
13 waste issues on it.

14 And while we acknowledge that there are going to  
15 be ongoing concerns, and those concerns are going to be  
16 going on probably for a significant amount of time, we  
17 feel that, you know, it's our program's mandate the  
18 address those solid waste issues in a timely manner so  
19 that at least they won't have to be dealt with in the  
20 future. I mean, you can see by the pictures. We have a  
21 pretty significant threat to public health and safety and  
22 the environment by all the debris on the surface of the  
23 site. There's certainly other concerns.

24 BOARD MEMBER PEACE: I'm just wondering if there  
25 are other sites as bad as that around the state that

1 weren't a superfund site, so if we clean those up --

2 PERMITTING AND ENFORCEMENT DIVISION SUPERVISOR

3 MINDERMAN: I'm not aware of any others that are as bad  
4 as that one. Of course, I have to caveat that answer with  
5 New Idria is an illegal disposal site. And we are  
6 constantly discovering new illegal disposal sites  
7 throughout the state. It's just the inherent nature of  
8 those sites. We're always looking for them. There may be  
9 worse ones out there. But right now New Idria is the  
10 highest priority for us.

11 BOARD MEMBER PEACE: Thank you.

12 CHAIRPERSON MOULTON-PATTERSON: Mr. Mindermann,  
13 this Futures Foundation, this drug rehabilitation program,  
14 they're not in business anymore, are they?

15 PERMITTING AND ENFORCEMENT DIVISION SUPERVISOR

16 MINDERMAN: Not to my knowledge. They are the current  
17 owner. They are also the ones that the San Benito  
18 district attorney did the asset search on. And our Legal  
19 Office has gone over what the San Benito County district  
20 attorney did. So I can't say they're not in business.  
21 But I can say that if they had any assets -- any  
22 significant assets, we can't find them.

23 CHAIRPERSON MOULTON-PATTERSON: Thank you.

24 Ms. Peace.

25 BOARD MEMBER PEACE: One more question. Will the

1 site -- that's going to cost \$175,000 total, or is it  
2 175,000 plus the \$59,929?

3 PERMITTING AND ENFORCEMENT DIVISION SUPERVISOR

4 MINDERMAN: Our estimate for our cost is \$175,000 total.

5 So right now under the proposal we would recover \$60,000  
6 of that. So our net cost, assuming things go as we plan,  
7 would be probably around 110- or \$115,000.

8 BOARD MEMBER PEACE: Thank you.

9 CHAIRPERSON MOULTON-PATTERSON: Do we have a  
10 motion to approve this?

11 Oh, Mr. Paparian, you wanted to --

12 BOARD MEMBER PAPARIAN: We love these cleanups.

13 I'll move Resolution 2004-55, Consideration of  
14 New Projects for the Solid Waste Disposal and Co-Disposal  
15 Site Cleanup Program.

16 BOARD MEMBER JONES: Second.

17 CHAIRPERSON MOULTON-PATTERSON: We have a motion  
18 by Mr. Paparian, seconded by Mr. Jones to approve  
19 Resolution 2004-55.

20 I see no objections, so please substitute the  
21 previous roll call.

22 And we're now on to 24, I believe.

23 DEPUTY DIRECTOR SCHIAVO: Item 24 is  
24 Consideration of Scope of Work for Targeted Statewide  
25 Waste Characterization Studies. And Nancy Carr will be

1 making this presentation.

2 (Thereupon an overhead presentation was  
3 presented as follows.)

4 MS. CARR: Good afternoon, Chair  
5 Moulton-Patterson and Board members. My name is Nancy  
6 Carr, and I'm here to present the scope of work for the  
7 targeted statewide characterization studies. I have some  
8 slides.

9 --o0o--

10 MS. CARR: Waste characterization information  
11 tells us the types and amount of materials in the waste  
12 stream or, if you will, how much paper, glass, metal, et  
13 cetera, are in the pie.

14 --o0o--

15 MS. CARR: Here's another way to look at waste  
16 characterization data. This table shows the top ten  
17 materials disposed of in the statewide waste stream in  
18 1999. As you can see in '99, there were still quite a bit  
19 of divertable materials being disposed in the statewide  
20 waste stream.

21 --o0o--

22 MS. CARR: How do we do a waste characterization  
23 study? We start by taking samples of waste from garbage  
24 trucks at randomly-selected disposal facilities or from  
25 dumpsters at the site of generation, such as businesses or

1 apartment complexes.

2 --o0o--

3 MS. CARR: Each sample is sorted --

4 --o0o--

5 MS. CARR: -- into our standard material types.

6 --o0o--

7 MS. CARR: And then each material type is weighed  
8 and its percent of the overall sample is determined. And  
9 this process continues until we have enough samples to  
10 sufficiently represent the waste stream. And through the  
11 magic of statistics, we can estimate the types and  
12 quantities of materials still being disposed.

13 --o0o--

14 MS. CARR: Why do we what to do this? Well, we  
15 need to know what's still being disposed in our waste  
16 stream in order to develop the programs and policies  
17 necessary to increase our diversion and decrease our  
18 disposal. That's a waste characterization study in a  
19 nutshell.

20 --o0o--

21 MS. CARR: Now I'd like to give you a little  
22 background just to let you know where we stand at this  
23 point. The Boards's strategic plan calls for a waste  
24 characterization study to be done every four years. The  
25 first one was done in 1999. After that study was

1 completed, we developed a budget change proposal to do the  
2 next statewide study, similar to what we did in 1999.  
3 This would require a substantial budget, and that BCP was  
4 not approved.

5 To meet the minimum requirements for  
6 characterizing the statewide waste stream and to gather  
7 data on rigid plastic packaging containers, in fall of  
8 2002 the Board approved a contract to do a smaller study  
9 which is now underway.

10 After the current study began, an updated BCP  
11 based on our concept for the larger study was approved for  
12 this fiscal year, and now we have \$990,000 available for  
13 waste characterization studies.

14 --o0o--

15 MS. CARR: Just a little bit about the '99 study.  
16 It was unique in the notion in that we collected statewide  
17 data for the commercial sector by sampling at business  
18 sites, rather than sampling from garbage trucks that  
19 collect from many businesses at once, which is kind of the  
20 traditional way of doing a study.

21 This is more difficult and expensive way to do  
22 the study, but it allowed us to develop waste compositions  
23 for 26 different business groups and put it on our  
24 website. And this is a page from our website that shows  
25 data for restaurants. Our web database is used by

1 California jurisdictions and California businesses, as  
2 well as other states and even internationally.

3 --o0o--

4 MS. CARR: Because the proposed -- I'm sorry.  
5 Last month we completed our third field sampling season  
6 for the current study. Since the budget for this study  
7 was smaller than the '99 study, we're doing landfill-based  
8 sampling rather than generator based. So we're not  
9 getting data from actual business sites.

10 The results will include the overall statewide  
11 waste composition and will also have data for each sector,  
12 residential, commercial, and self-haul. The commercial  
13 sector will only have data for the overall commercial  
14 sector rather than individual business types. And we'll  
15 have information on the amount of RPPCs disposed, which is  
16 needed to calculate the recycling rate.

17 What's new this year is that we expanded the  
18 material types to gather detailed data on E-waste;  
19 California redemption value containers, which we're doing  
20 in conjunction with the Division of Recycling; and other  
21 material types, such as expanded fill types and carpet.  
22 This study will be completed in September of this year.

23 --o0o--

24 MS. CARR: Because our proposed new study comes  
25 so soon after the current study, we can take some new

1 approaches. The current study fulfills the requirements  
2 for the overall statewide waste stream data, as well as  
3 RPPC disposal data. Therefore, we have the opportunity to  
4 target specific sources and waste streams for the new  
5 study.

6 We conducted an informal survey of Board staff,  
7 local government staff, and consultants that work with  
8 local governments and/or they perform waste  
9 characterization studies. And we asked them for suggested  
10 topics for study or areas they saw more data was needed.  
11 This information was used to select the four areas we  
12 propose to study in more depth. Selected commercial  
13 generators, material recovery facilities residuals,  
14 construction and demolition waste, and non-C&D commercial  
15 self-haul waste.

16 I have more detailed data on each one of those  
17 four tasks if you'd like to see it, or I can move ahead to  
18 the recommendation.

19 CHAIRPERSON MOULTON-PATTERSON: I think move  
20 ahead.

21 MS. CARR: Okay. I wanted to let you know that  
22 last Friday we received an e-mail from L.A. County  
23 expressing support for this project, and they also  
24 suggested some minor modifications to the scope of work  
25 for collecting information on C&D materials by truck type.



1 We didn't have time to modify the scope of work in the  
2 agenda item for today, but I would like to include those  
3 suggestions in our scope of work when we send it out in  
4 the request for proposal.

5           So I'd like to recommend that the Board approve  
6 the Scope of Work for Targeted Statewide Waste  
7 Characterization Studies with those minor modifications  
8 based on the L.A. County suggestions, direct staff to  
9 proceed with their request for proposal, and adopt  
10 Resolution Number 2004-57.

11           Any questions?

12           CHAIRPERSON MOULTON-PATTERSON: Ms. Peace.

13           BOARD MEMBER PEACE: I just had a few comments.  
14 On the -- says here the first step of the C&D waste here  
15 says will be to develop a reliable volume to weight  
16 conversion factor for the expanded list of C&D material  
17 types. Then what do you plan to use these conversion  
18 factors for? How do you plan to use those?

19           MS. CARR: What we're proposing also to develop  
20 is a visual way to characterize C&D waste. Usually for  
21 characterization studies, samples are taken and hand  
22 sorted, as you saw in the slides. C&D can be big, bulky  
23 pieces or it can loads of, you know, an entire load of  
24 concrete or something. It doesn't lend itself as well to  
25 being hand sorted as visually sorted. What you can do is

1 visually estimate the volume of the different materials  
2 in, like, an entire load and then that volume estimate  
3 needs to be converted to a weight amount. So you need  
4 conversion factors to say that, you know, a cubic foot of  
5 cement is 90 pounds or something like that. But that's  
6 what those conversion factors are for. When I was talking  
7 to people about ideas for the study, several people  
8 mentioned that we need reliable conversion factors for  
9 these type of materials.

10 BOARD MEMBER PEACE: I just had an idea. A  
11 couple months ago the Board heard a discussion of the  
12 possible applications of 14 new requirements adopting the  
13 construction, demolition, and inert debris processing  
14 regulations to the regulation of other solid waste. And  
15 the Board agreed with staff's recommendation that staff  
16 conduct further analysis of the scales requirement.

17 I was just wondering if this might be something  
18 to look at maybe with these conversion factors. Would  
19 those be good enough to use in place of requiring scales  
20 at C&D facilities?

21 DEPUTY DIRECTOR SCHIAVO: That's part of the  
22 rationale for doing the construction/demolition waste in  
23 this proposed disposal reporting regulation that staff are  
24 moving forward on a 45-day notice period. Our proposal --  
25 and we got this proposal through our public hearing

1 process or public workshop process, is to provide  
2 exemption from scales for rural jurisdictions as well as  
3 other jurisdictions that can provide an adequate  
4 justification. Also for self-haul vehicles, anything  
5 under one ton, that would be based on the volume to weight  
6 and not through the typical process we use. So those are  
7 a couple of the reasons we also wanted to look at this, in  
8 addition to people commenting that they wanted this  
9 information.

10 BOARD MEMBER PEACE: Also I just wanted to make a  
11 comment on the characterization of the commercial  
12 self-haul drop box waste streams. Also, I had a question  
13 on the self-hauler. You know, they really do contain  
14 readily recoverable items and materials such as furniture.  
15 And from the landfills I've toured, you know, I'm appalled  
16 by what I see self-haulers throw away. We should be  
17 ashamed -- as Americans we should be ashamed of what we  
18 throw away. We could actually furnish and clothe a  
19 third-world country with what we throw away.

20 In fact, I as well as the operators of the Otay  
21 Landfill, Allied, were so upset by what we saw being  
22 thrown away that Otay has recently put in a separate drop  
23 off area for all their self-haulers. And they worked out  
24 a deal with Good Will to come and take the recoverable  
25 items. And I just think this is such a good idea.

1 Something like this would be great to see at every  
2 landfill. Those are the only comments I had to make.

3 CHAIRPERSON MOULTON-PATTERSON: Thank you, Ms.  
4 Peace.

5 Mr. Jones.

6 BOARD MEMBER JONES: Thanks, Madam Chair. I just  
7 have a couple of -- I've actually got three.

8 When you're looking at the MRFs, the  
9 single-stream recyclables -- and I know you have more  
10 detail, but I think we need to know not only the  
11 percentage of residual, but I think you need to find out  
12 if the processor and the hauler are the same person.  
13 Because what we're going to find, I think, is that when a  
14 hauler has no stake, the residual is going to go up, as  
15 opposed to if the hauler is the processor. And that would  
16 be important information for us to look at for a lot of  
17 different reasons.

18 I also think we ought to know what the role of  
19 the city is in those contracts, as far as what are they  
20 doing to educate the public. We are missing the boat not  
21 to deal with cleaning up single stream, because everybody  
22 points their finger at a different direction. And we  
23 ought to find out what the container sizes are. If it's  
24 hard and fast, then it's 35 gallon for garbage, 90 gallon  
25 for green waste and recycling, and we see high residual,

1 then we have a pretty good idea that they have not  
2 provided adequate space for the garbage.

3           There's a fallacy among some that if you give  
4 them a small enough container they'll have to recycle.  
5 The reality is if you give them a small enough container,  
6 they'll contaminate not only the recyclables they throw  
7 away, but all the other recyclables that are picked up  
8 within that vicinity.

9           I think if you look at Franklin Institute and  
10 SWANA on some of your C&D conversions, that's really  
11 something that's been used. One thing that's really  
12 important is that any consultant can use anything that is  
13 published by the State as a reference point when they do  
14 their base years. And we had somebody that said the  
15 garbage weighed 100 pounds a cubic yard as part of the  
16 study, which is not accurate. So we need to do that.

17           And then my last suggestion for the members is  
18 that part of the process in applying for an RFP to do work  
19 for the State is that they bring in or they put in their  
20 package a series of recommendation letters from different  
21 customers or whatever to say that they're competent. I  
22 think it is incumbent on this Board, especially when we're  
23 dealing with waste generation studies.

24           We have a history of base years that have come in  
25 front of this Board that in some cases were off by

1 50 percent or 70 percent in what they had asserted as  
2 being valid information. We've all seen it where we've  
3 had 68 percent diversion rates first came in, and then  
4 when our staff got through looking at it, we were closer  
5 to about 25 percent. That information has got to be part  
6 of this scoring. Those companies that continue to do that  
7 kind of work that -- and I'm not talking 2 tons, 3 tons,  
8 you know. I mean, at the end of the day there are  
9 mistakes. I'm talking gross mistakes where there's big  
10 percentages of material that has been told to this Board  
11 is being recycled and actually didn't even exist. That  
12 has to go into the same process to determine whether or  
13 not we want those people doing business for this Board.

14 So I would ask Board members to contemplate their  
15 suggestions. I think it's important to the integrity of  
16 our program to make sure we have numbers that we can rely  
17 on because we sure haven't been able to rely on some of  
18 the base year numbers.

19 CHAIRPERSON MOULTON-PATTERSON: Thank you very  
20 much, Mr. Jones. We certainly will.

21 Do we have any further -- had you finished your  
22 report?

23 MS. CARR: Uh-huh.

24 CHAIRPERSON MOULTON-PATTERSON: I'm looking for a  
25 motion.

1 BOARD MEMBER JONES: Madam Chair.

2 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

3 BOARD MEMBER JONES: I'll move adoption of  
4 Resolution 2004-47, Consideration of Scope of Work for  
5 Targeted Statewide Waste Characterization Studies, Fiscal  
6 Year 2003-04, BCP 2, Updated Statewide Waste  
7 Characterization Studies with not only the Los Angeles  
8 County issues to be part of the scope of work, but those  
9 three items that I just mentioned to be part of that same  
10 motion.

11 BOARD MEMBER PEACE: Second.

12 CHAIRPERSON MOULTON-PATTERSON: We have a motion  
13 by Mr. Jones, seconded by Ms. Peace to approve Resolution  
14 2004-47 with the additional suggestions by Mr. Jones.

15 Please call the roll.

16 SECRETARY WADDELL: Jones?

17 BOARD MEMBER JONES: Aye.

18 SECRETARY WADDELL: Medina?

19 BOARD MEMBER MEDINA: Aye.

20 SECRETARY WADDELL: Paparian?

21 BOARD MEMBER PAPARIAN: Aye.

22 SECRETARY WADDELL: Peace.

23 BOARD MEMBER PEACE: I hope this study will  
24 ultimately show just how easy it's going to be in the  
25 state to get to 75 percent diversion. Aye.

1 SECRETARY WADDELL: Washington?

2 BOARD MEMBER WASHINGTON: Aye.

3 SECRETARY WADDELL: Moulton-Patterson.

4 CHAIRPERSON MOULTON-PATTERSON: Aye.

5 Okay. Going to our last item on the agenda, it  
6 is an Update on the implementation of SB 20, the  
7 Electronic Waste Recycling Act of 2003. This is the first  
8 step of beginning to educate the entire Board on the  
9 implementation of SB 20.

10 And there's going to be a lot of other  
11 opportunities for stakeholder input. I know we do have  
12 one speaker slip, which I will honor. And I know  
13 Mr. Paparian, who's been such a leader in this field,  
14 would like to say a few words before I turn it over to  
15 Mr. Leary who's going to do the presentation.

16 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.

17 I want to especially thank our staff, Shirley  
18 Willd-Wagner and her E-team, Mr. Leary, Ms. Nauman, many  
19 others at the Board have really worked hard to make sure  
20 we're successful in the rollout of SB 20. And I know that  
21 DTSC has been doing the same. Peggy Harris is in the back  
22 of the room. She's been leading the effort for DTSC on  
23 implementation.

24 We have been in very regular contact with Agency  
25 Secretary Tamminen who gives this program his total



1 support and assures us that the Schwarzenegger  
2 Administration shares his view to the point where  
3 Schwarzenegger may, in fact, lend his likeness to some of  
4 our efforts in public education on this.

5           The legislation, SB 20, it's complex. It's  
6 multi-faceted. It deals with a lot of issues. There's a  
7 changing marketplace here. A lot of issues are coming to  
8 light as we work on implementation. There's issues like  
9 working with BOE on collection of the fee, making sure  
10 that we promote free and convenient as much as possible,  
11 clarification of enforcement capabilities, how we fund the  
12 startup costs, a whole range of things that are being  
13 worked on. Again, the staff has been doing an outstanding  
14 job on this.

15           There is cleanup legislation, SB 50, by Senator  
16 Sher. Carroll Mortenson has been taking a lead role in  
17 pulling together our work on that. Although, I've been in  
18 contact with Kip Lipper of Senator Sher's office quite a  
19 bit. We had a meeting yesterday afternoon on  
20 implementation issues with Mr. Lipper. In fact, up here  
21 I've been exchanging some e-mails with him.

22           So I shouldn't take any more time from the staff  
23 presentation. It's an important program. I think we're  
24 going to be able to really show the world what we can do,  
25 how the Waste Board can take a leadership role in an

1 important area. And I think it's a shining example of  
2 what we can do.

3 CHAIRPERSON MOULTON-PATTERSON: Thank you,  
4 Mr. Paparian. And we thank you and your staff for your  
5 leadership.

6 Mr. Medina.

7 BOARD MEMBER MEDINA: I also think that we very  
8 much needed a program. And I just had one question.

9 This is for Mr. Paparian. I guess my concern is  
10 that under this bill the consumers are bearing all the  
11 cost. Six to \$10 is not an insignificant fee. And I just  
12 wonder why some of the costs are not passed on to the  
13 manufacturers, or if, in fact, there is some cost to the  
14 manufacturers at some point.

15 BOARD MEMBER PAPARIAN: That was a political  
16 determination, in essence, by the Legislature last year.  
17 When we went into the process, we were thinking that there  
18 would be a different sharing of the responsibilities  
19 between the manufacturers and the consumers. But in the  
20 end, Senator Sher felt this was the best way he could  
21 approach it.

22 There is some manufacturer responsibility in here  
23 for reducing the amount of toxic material in the covered  
24 product, as well as reporting on the recyclability and  
25 recycled content in those products. But again, in the end

1 Senator Sher moved forward with the idea that the best  
2 program that he could put together was one that involved a  
3 fee between 6 and \$10.

4 BOARD MEMBER MEDINA: Are there any exemptions  
5 built in for schools, for example?

6 BOARD MEMBER PAPARIAN: The short answer is no.  
7 It's any product sold at retail. You know, any product  
8 involving a sale is covered by the legislation. By the  
9 same token, schools would have the opportunity then to  
10 recycle without the sorts of costs they're facing right  
11 now when they're at the end of the life of the product.

12 BOARD MEMBER MEDINA: So state government if they  
13 made mass purchases of computer would also pay a fee?

14 BOARD MEMBER PAPARIAN: Yes.

15 CHAIRPERSON MOULTON-PATTERSON: Thank you.

16 Mr. Leary.

17 EXECUTIVE DIRECTOR LEARY: I'll do a brief  
18 introduction before I turn it over the Shirley. I'd like  
19 the echo Mr. Paparian's comments with particular emphasis  
20 on how pleased I am that our own internal team has come  
21 together under Julie's guidance and Shirley's day-to-day  
22 management. And the other thing I'm very proud of is the  
23 close working relationship we've developed with the  
24 Department of Toxics in implementing this.

25 The purpose today is to bring the Board up to

1 speed of preparation from a number of important milestones  
2 that are ahead for us. Most urgently or most immediately  
3 is your consideration of emergency regulations in April as  
4 we stick to our current schedule. So Shirley will brief  
5 you on our progress and anticipate and enjoy your full  
6 support. Thank you.

7 (Thereupon an overhead presentation was  
8 presented as follows.)

9 SPECIAL WASTE DIVISION BRANCH MANAGER

10 WILLD-WAGNER: Thanks to both of you.

11 I did want to just acknowledge and give  
12 appreciation also then, in addition to the team, to Member  
13 Paparian who has given us so much of the leadership on  
14 this issue and has been very accessible to the team  
15 members. When we struggle too much with the details and  
16 we need to put things into the big picture perspective,  
17 he's been very available to us.

18 SB 20 is about trying to come up with a way to  
19 environmentally -- to address the problem of a very  
20 troublesome waste stream with an environmentally safe  
21 management operation and to provide some financial relief  
22 to those who are having to deal with the problem. I think  
23 many of you are aware of the essence of time. I'll go  
24 through some of these slides rather quickly.

25 I did want to urge you -- a video was circulating

1 through your offices. It's called "Exporting Harm: The  
2 High-Tec Trashing of Asia." It was produced by the Basel  
3 Action Network and the Silicon Valley Toxic Coalition.  
4 And if you haven't viewed this 27-minute video, I urge you  
5 to do so because it's very enlightening. It will help set  
6 the context for why we got here, how we got here, and what  
7 you'll be looking at in reviewing our regulations over the  
8 next couple of months.

9 --o0o--

10 SPECIAL WASTE DIVISION BRANCH MANAGER

11 WILLD-WAGNER: The E-team was appointed by Executive  
12 Director Leary back in October, and I wanted to update you  
13 on some of our activities. Certainly they've all  
14 mentioned our close coordination with the Department of  
15 Toxic Substances Control. Our priority right now is  
16 working on developing regulations and doing this in  
17 concert with the Department.

18 --o0o--

19 SPECIAL WASTE DIVISION BRANCH MANAGER

20 WILLD-WAGNER: Need to acknowledge all of the other Deputy  
21 Directors who have graciously loaned their staff to the  
22 E-team. It's been really important to have knowledges and  
23 abilities, backgrounds from all the various divisions  
24 within the Department. So certainly thank you to all the  
25 Exec staff.

1           Some of the activities real quickly. We've held  
2 workshops. Public input is critical on this effort.  
3 We've held four different public outreach workshops in  
4 October through February. And then we have one more in  
5 April. We have sent staff to Southern California also to  
6 present our ideas and thinking.

7           We've facilitated list serve distribution, which  
8 has been our primary means of communication with the  
9 stakeholders; website coordination. We've toured  
10 recycling facilities. Basically, we're learning,  
11 learning, learning as much as we can absorb. And we  
12 continue to hold conference calls with stakeholders.

13                               --oOo--

14           SPECIAL WASTE DIVISION BRANCH MANAGER

15 WILLD-WAGNER: Here's a real quick link I think you're all  
16 aware of the electronics website. Terri Persons and Jeff  
17 Hunts of the E-team have put together an excellent site, a  
18 whole section on SB 20, and what we're doing to date, and  
19 how we've also got all of our background handout materials  
20 for the stakeholder workshops listed on there.

21           I think workshops have been really successful.  
22 We've had between 100 and 200 participants at each of the  
23 workshops, as well as between 50 and 100 people listening  
24 in on the web Internet broadcasts. And what's been really  
25 worthwhile to me is that we wouldn't be here where we are

1 as far -- as long as we are certainly without the  
2 thoughtful involvement of the stakeholders.

3 The bill is about money. It's about  
4 environmental protection. It's also about money. And we  
5 could have some competing interest here, but they've  
6 really been very thoughtful in working together. The  
7 input has been constructive and it's been specific. And I  
8 just really acknowledge the hard work that even all the  
9 stakeholders have been able to do.

10 --o0o--

11 SPECIAL WASTE DIVISION BRANCH MANAGER

12 WILLD-WAGNER: Very aggressive time line. Both Mike and  
13 Mark mentioned some of these dates. The only thing I'll  
14 point out here is that the Office of Administrative Law  
15 processes. This is an emergency regulation process. So  
16 the review period is drastically shortened. There's a  
17 5-day public comment period after the emergency regs go to  
18 OAL and ten days for the OAL to review. All of that will  
19 happen after these stakeholder workshops, of course, and  
20 after your consideration in April.

21 --o0o--

22 SPECIAL WASTE DIVISION BRANCH MANAGER

23 WILLD-WAGNER: The key elements of SB 20. Again, Mike has  
24 already mentioned some of this. But it basically involves  
25 a collection of the recycling fee at the first point of

1 retail sale; Board payments back to authorized collectors  
2 and recyclers to cover the cost of E-waste collection and  
3 recycling. And we'll tell you a little more about what  
4 we're thinking is on that. Also the manufacturers'  
5 responsibilities including reporting, labeling, and  
6 consumer education. We'll go into that little more  
7 detail. Reduction of hazardous substance and the  
8 environmentally-preferred purchasing criteria for state  
9 agencies.

10 --o0o--

11 SPECIAL WASTE DIVISION BRANCH MANAGER

12 WILLD-WAGNER: These milestones, again you have mostly  
13 heard. The biggies start July 1st. The fee is charged,  
14 and the Board must establish the payment schedule for  
15 these recovering recycling payments.

16 The other one I wanted to point out is December  
17 31st, 2007. This is the target date set in the  
18 legislation to let us get rid of all of those E-waste  
19 stockpiles we know exist in people's garages. That's  
20 guiding our implementation.

21 The E-team -- our goal is to try to develop a  
22 system, because of these aggressive time lines, that's  
23 very efficient and that reduces the overhead, minimizes  
24 the overhead. It's simplified. More money can get back  
25 to those collectors and recyclers that need the financial



1 relief. We want the program to be market driven, which  
2 will encourage cost efficiency in the long run and also  
3 maximize business opportunities within California.

4 Now the emergency regulations will cover many of  
5 these topics and will provide a lot more detail to you in  
6 March. In the interest of time we wanted to just talk  
7 about a few of them, the areas on which we've had the most  
8 stakeholder involvement. So I want to introduce Matt  
9 McCarron to just briefly talk about manufacturer  
10 reporting.

11 MR. McCARRON: Good afternoon, Board members.

12 The manufacturing reporting responsibilities  
13 start with an annual report starting July '05, where they  
14 are supposed to provide some information to us on the  
15 amount of sales of covered electronic products; the amount  
16 of hazardous materials, there's six categories of those;  
17 the amount of recycled content used in their products; and  
18 what their plans are for design for recycling in the  
19 future.

20 We've been working with the stakeholders, the  
21 manufacturers, and the environmental groups to come up  
22 with a plan that works for everybody. They've come a long  
23 way since the beginning with the last couple of workshops  
24 to come to agreement about what we can do to make  
25 something -- a usable report for us. One of the goals we

1 have with this is we're looking at --

2 CHAIRPERSON MOULTON-PATTERSON: We'll try to get  
3 that taken care of.

4 MR. McCARRON: One of the issues we're looking at  
5 is an aggregate reporting effort that's been suggested to  
6 us that may make it easier and protect proprietary  
7 information that the manufacturers have. We're looking to  
8 see if that can work. That's one of the main issues we're  
9 working with right now.

10 --o0o--

11 MR. McCARRON: And for consumers information,  
12 there's a couple of different areas. Labels are required  
13 on all the products come the end of the year, 1st of  
14 January '05. The manufacturers are also to provide  
15 information and resources on how to recycle, how to  
16 properly dispose of it in their products, and maintain  
17 that on a regular basis with websites or other customer  
18 information.

19 The Board is also charged with the ability to do  
20 an outreach program. And we're going to be aggressively  
21 working starting with the retailers come April and July  
22 for getting good word out through the retailers to the  
23 customers as they start paying that fee, come July 1st.  
24 And we'll be working with a program with Tom Estes and  
25 Chris Peck to get that word out in a coordinated fashion

1 with DTSC and local governments as well.

2 So with that I'd like to turn it over to John  
3 Sitts to talk about payments.

4 BOARD MEMBER MEDINA: I just had a question  
5 before you leave, and that's in regard to the last bullet.  
6 "Waste Board to have 1 percent of fund available to  
7 provide outreach on issues related to SB 20  
8 implementation." You mentioned the retailers. What about  
9 the consumers?

10 MR. McCARRON: That's included in this whole  
11 package. We're starting with the retailers because  
12 they're going to be providing information at the point of  
13 sale so it will be the first line --

14 BOARD MEMBER MEDINA: What benefit would the  
15 consumers get from this? How would consumers be involved?

16 MR. McCARRON: Well, the consumers, their role is  
17 as they pay this fee, they'll want to know what it's for.  
18 And we will tell them that what it does is take care of  
19 their disposal options on the back end. Part of the basis  
20 of the bill is a free and convenient disposal option for  
21 consumers once they decide this material has no more  
22 useful life in it. So they should have a place to drop it  
23 off for free.

24 BOARD MEMBER MEDINA: But in regard to the  
25 retailers under this last bullet, would you be providing

1 funds to the retailers to do outreach?

2 MR. McCARRON: I don't think we've determined  
3 that yet.

4 BOARD MEMBER MEDINA: And the reason I bring that  
5 up is if you're going to provide some funding to retailers  
6 and manufacturers to do outreach, it seems to me there are  
7 a number of consumer organizations that should also have  
8 the same benefit.

9 MR. McCARRON: We've had that discussion with the  
10 manufacturers as well to provide one single point of  
11 contact for outreach for all this so there's one place  
12 that somebody can go to at the State to get this  
13 information. And we're trying to coordinate it with two  
14 departments, as well as local government agencies with the  
15 facts sheets and things like that through the retailers  
16 and through local governments and their outreach efforts  
17 as well.

18 BOARD MEMBER MEDINA: The point I want to make is  
19 if there's any funding that goes out of this 1 percent to  
20 these three groups that you have under there, that  
21 consumers or consumers groups should also benefit in  
22 regards to any moneys given out of this fund.

23 MR. McCARRON: True.

24 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.  
25 Medina.

1           Ms. Peace.

2           BOARD MEMBER PEACE:   Where it says labels are  
3 required, what kind of label?   What does that mean?

4           MR. McCARRON:   It's just to identify the product.  
5 There's a segment of the manufacturing community called  
6 the white-box goods where there's no label showing on a  
7 product.   So this measure was put into the bill to  
8 identify the product so we know what the manufacturers of  
9 the materials are, so for reporting purposes and  
10 identification for disposal purposes later down the line.

11          BOARD MEMBER PEACE:   So it's not something that's  
12 on the computer.   If it doesn't have that label, then you  
13 can't take it to a recycling --

14          MR. McCARRON:   Some people are buying computer  
15 through the Internet.

16          BOARD MEMBER PEACE:   I was just going to say that  
17 next.

18          MR. McCARRON:   They get a white box with no name  
19 on it.

20          BOARD MEMBER PEACE:   They can still -- those same  
21 people that buy their computers over the Internet, they'll  
22 be still be able to take their computer to a recycler?

23          MR. McCARRON:   Correct.

24          BOARD MEMBER PEACE:   Even though they didn't pay  
25 the fee?

1           MR. McCARRON: They are required to pay the fee.  
2 All manufacturers -- consumers are required to pay the fee  
3 at the point of purchase, whether it's over the Internet,  
4 through catalog, or at a retail store.

5           BOARD MEMBER PAPARIAN: Just a point of  
6 clarification. I heard the word computers. The bill  
7 applies to televisions and monitors, not to the computer  
8 box. Although in applying to monitors, given what Toxics  
9 is saying, it will apply to laptops that have a monitor  
10 attached.

11          CHAIRPERSON MOULTON-PATTERSON: Thank you for  
12 that clarification.  
13 Have we worked out the collection problem of the  
14 Board of Equalization? Has that been worked out,  
15 Mr. Paparian?

16          BOARD MEMBER PAPARIAN: The discussions are  
17 ongoing. We don't yet have an agreement specifying the  
18 date they'll start the actual work on implementation of  
19 the collection program. Mr. Leary, Ms. Nauman, a lot of  
20 our staff have been involved with discussions with the  
21 Board of Equalization, and it's also the subject of some  
22 of discussions we're having with Mr. Lipper over at the  
23 Capitol.

24          CHAIRPERSON MOULTON-PATTERSON: So you think it  
25 will be resolved so you can do the timely?

1 BOARD MEMBER PAPARIAN: It can be resolved.

2 We're hopeful that we'll be able to reach the agreement  
3 with Board of Equalization so they can do what they need  
4 to do on their end. The anticipation is that there's  
5 probably around 70,000 retailers that will be involved in  
6 collection of the fee.

7 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

8 FINANCIAL ASSISTANCE BRANCH MANAGER SITTS: Good  
9 afternoon, Board members. My name is John Sitts. I'm  
10 Manager of the Financial Assistance Branch.

11 SB 20 provides for the disbursement of payments  
12 to offset the costs associated with recovering recycling  
13 of recovered electronic waste.

14 --o0o--

15 FINANCIAL ASSISTANCE BRANCH MANAGER SITTS: Staff  
16 have developed, and we discussed, a draft payment model at  
17 the February 6th workshop, and it was well received by  
18 most of the people in attendance. So we have been working  
19 closely with the stakeholders.

20 As we work out the details and start to develop  
21 regulations, we'll continue this dialogue and continue to  
22 be flexible and strive for a payment system that's  
23 practical, equitable, and consistent with SB 20.

24 --o0o--

25 FINANCIAL ASSISTANCE BRANCH MANAGER SITTS:

1 E-waste collectors, whether they're local governments,  
2 non-profits, or private businesses are essential to an  
3 effective and efficient program. Collectors have been  
4 bearing many of the costs of E-waste handling and they  
5 need relief promised by SB 20.

6           The proposed model was designed to provide some  
7 certainty and real cost relief by requiring authorized  
8 recyclers to pay collectors a minimum of 20 cents per  
9 pound for all covered electronic waste that the recyclers  
10 accept, and this is regardless of how the recycler intends  
11 to deal with the material. The intent is for a free and  
12 convenient system to handle this E-waste.

13           As the program gets going, we're hoping that most  
14 of the systems in the state will be free and convenient,  
15 although some collectors or recyclers may have to charge  
16 to cover their costs if our reimbursement doesn't.

17                               --oOo--

18           FINANCIAL ASSISTANCE BRANCH MANAGER SITTS:  
19 Authorized recyclers will be the other key players in the  
20 system, and they have the ability to make decisions on how  
21 to deal with each covered electronic waste item that they  
22 receive. And for the items that they chose to cancel, we  
23 would reimburse them. And we're proposing a 48 cent per  
24 pound reimbursement for these covered electronic wastes  
25 that are canceled.



1           Cancellation removes the item from the payment  
2 system and ensures that multiple payments are not made for  
3 the same item. Our examples show items containing cathode  
4 ray tubes, or CRTs. But as other items such as flat  
5 panel monitors and laptop computers are added,  
6 cancellation will continue to evolve.

7                               --o0o--

8           FINANCIAL ASSISTANCE BRANCH MANAGER SITTS:

9 Basically, the example just shows that when a recycler  
10 accepts covered electronic waste from a collector, they  
11 will pay 20 cents per pound at least. If the materials  
12 are reused and they get more money than that, hopefully  
13 that will also be passed on to the collector.

14                              --o0o--

15           FINANCIAL ASSISTANCE BRANCH MANAGER SITTS: Once  
16 the recycler has it -- as I said, recyclers have several  
17 options. The bottom-most one is they can crash or  
18 dismantle the piece on site, and that would be defined as  
19 cancellation for our purpose. We know once it's a pile of  
20 glass, that CRT or device is not going to recycle through  
21 the system, and we're not going to be paying on it over  
22 and over again. In that case, they'd get 48 cents per  
23 pound reimbursement to cover the recycling, and then what  
24 they paid the collectors.

25           The top one, reuse -- from discussions with

1 stakeholders, we heard that reuse really isn't an issue  
2 that needs to be addressed here. Because if an item is  
3 good enough to be reused, they're going to get more money  
4 than the 48 cents for it. So there's still some  
5 discussion about reuse.

6           The center one, material being sent out of state  
7 whether it's exported to a different country or sent to  
8 another state, is the one we are really struggling with at  
9 this point, and we're working closely with stakeholders to  
10 figure out how we can make this a good system.

11                               --o0o--

12           FINANCIAL ASSISTANCE BRANCH MANAGER SITTS:  
13 Administration of the payment system will be challenging,  
14 and minimizing innocent errors, intentional fraud, and  
15 high overhead costs, while at the same time making  
16 adequate and timely payments to cover the average net  
17 costs of both collectors and recyclers will require a  
18 robust, simple system with clear distinctions and  
19 streamline processes.

20           We're working to fine tune the model to  
21 accomplish these goals so we can move forward and develop  
22 the emergency regulations over the next month.

23           And with that, I'll turn it back over to Shirley.

24           CHAIRPERSON MOULTON-PATTERSON: Thank you.

25           SPECIAL WASTE DIVISION BRANCH MANAGER

1 WILLD-WAGNER: Big challenges ahead. So I know we've gone  
2 through this very quickly. Obviously, our team will be  
3 available to you if you have more information needs that  
4 you would like.

5 Just wanted to point out a few of these next  
6 steps. We're going to continue on the fee collections  
7 negotiation. We are currently drafting these emergency  
8 regulations, continuing the stakeholder discussions.

9 We will, again, be back with you in March at the  
10 San Jose meeting to present a real firm outline of what  
11 our regulatory package will look like. We're committed to  
12 posting draft regulation language on the Board website  
13 March 23rd. That happens to be the agenda deadline for  
14 the April Board meeting so that's why we picked March  
15 23rd. Stakeholders will then have the time to actually  
16 look at the language and have a final workshop April 2nd  
17 before the Board meeting. And then the Board meeting is  
18 on April 13th and 14th, and that's at the time we will ask  
19 for your review, consideration, and hopefully adoption of  
20 the emergency regulation package.

21 Are there any other questions?

22 CHAIRPERSON MOULTON-PATTERSON: I don't see any  
23 at this time. Thank you for a great introduction to this.  
24 Ms. Hunter, last chance. Okay.

25 Mr. Paparian wanted to have one final word.

1 BOARD MEMBER PAPARIAN: As we moved forward to  
2 adjourn -- I'm going to pass the E-waste issue. I just  
3 wanted to take note that in a couple days is Peggy  
4 Farrel's birthday. So I want to adjourn in honor of Peggy  
5 Farrell, whose birthday is coming up. And I think there's  
6 something about to come up on the screen. There it is.  
7 And Peggy's husband is in the audience in the back of the  
8 room.

9 CHAIRPERSON MOULTON-PATTERSON: Oh, well, thank  
10 you. But our office can't be topped. Ms. Bruce is having  
11 a very significant birthday March 10th. So happy birthday  
12 to both of you.

13 Is there anything else that we wish to say?

14 Let's just say she's caught up with me.

15 Anyway, anything else? Have I forgotten  
16 anything? Public comment. I felt there was something I  
17 was forgetting. Any public comments?

18 Seeing none, this meeting is adjourned. Thank  
19 you very much.

20 (Thereupon the California Integrated Waste  
21 Management Board, Board of Administration  
22 Adjourned at 5:27 p.m.)

23

24

25

1 CERTIFICATE OF REPORTER

2 I, TIFFANY C. KRAFT, a Certified Shorthand  
3 Reporter of the State of California, and Registered  
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the  
6 foregoing hearing was reported in shorthand by me,  
7 Tiffany C. Kraft, a Certified Shorthand Reporter of the  
8 State of California, and thereafter transcribed into  
9 typewriting.

10 I further certify that I am not of counsel or  
11 attorney for any of the parties to said hearing nor in any  
12 way interested in the outcome of said hearing.

13 IN WITNESS WHEREOF, I have hereunto set my hand  
14 this 3rd day of March, 2004.

15

16

17

18

19

20

21 TIFFANY C. KRAFT, CSR, RPR

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